

Minute of Dissent by Raja Maniloll Singh Roy of Chakdighi.

I am sorry I could not agree in dropping the Bill. So long ago as 1921 the Government assured the Council, as may be seen from volume V, pages 388 to 393 of the Proceedings of the Bengal Legislative Council, of empowering the local authorities for levying taxes and exercising control over motor vehicles which regularly use their roads. This was in the 1st Council and by the end of the life of the 2nd Council and after 5 years, a Bill was introduced which is defective, and it was suggested by the majority to be dropped, with the promise of a better and more comprehensive Bill. Instead of that the present Bill could have been so altered and rules framed so as to make it acceptable to most of the interests involved, till a Bill as foreshadowed was ready. It is to the interest of all concerned that this should be done. No motor industry can ever flourish if there be no road and good road too. It is not that the local authorities are wilfully neglecting the roads. They have no money for the purpose.

Minute of Dissent by Rai Harendranath Chaudhuri and Dr. Bidhan Chandra Roy.

We cannot subscribe to the majority view that the Bill should be dropped after so much ado. While it is doubtful, in spite of a recent instance, whether the Select Committee is competent to make such a recommendation, the recommendation itself is regrettable in the extreme. The strangest part of the report, however, is the ready acquiescence of the Government in the proposal to abandon this Bill which has been under a promise of enactment (made and repeated by the Government) for years.

2. It is admitted on all hands, by officials and non-officials alike, that the roads and bridges in rural and urban areas outside Calcutta—not originally designed for motor transport—have been sustaining considerable damages on account of the introduction and expansion of motor vehicular traffic. While, therefore, on the one hand, the calls on local funds for road and bridge repairs have been much more frequent and heavy, the local authorities on the other are unable to control the traffic and powerless to recoup their losses. In this helpless situation, if the District Boards and their representatives have been insistent in their demand for remedial legislation, the Government have been equally persistent in their promise to arm them with enlarged powers in this behalf.

In November, 1921, *i.e.*, soon after the introduction of the Reforms, Raja Maniloll Singh Roy moved a resolution that "rules be framed authorising District Boards to levy taxes on Motor Vehicles." To secure the object of the resolution better, the late Hon'ble Sir S. N. Banerjea, the then Minister in charge of the Department, himself suggested and at his suggestion the following resolution was carried:—

"That this Council recommends to the Government that legislation be undertaken as early as possible with a view to enabling District Boards to levy taxes and exercise control over motor vehicles which regularly use their roads."

Since then enquiry after enquiry was made by way of interpellation, and the Government repeatedly answered that the Motor Vehicles Bill would shortly be introduced. Even so late as in February 1926 the Hon'ble Member in charge assured the Council in reply to a question put by Babu Jogendranath Mitra that "Government propose to introduce a Bill shortly in the Legislative Council which will empower District Boards and Municipalities to tax motor vehicles kept within their jurisdiction". But now

after taking five long years to introduce this Bill, after gathering non-official and official views—which with few exceptions almost unanimously support the Bill—the Government turns round and says that the Bill should not be proceeded with—a change of front as sudden as it is surprising indeed.

But what are the grounds on which this Bill is going to be given up? To examine them *seriatim* they are:—

(i) In the first place, the difficulties to work in practice the provisions of clauses 16 to 18 of the Bill. But clause 16 (corresponding to section 141A of the Bengal Municipal Act) simply prohibits double or multiple taxation on a motor vehicle. Clause 18 of the Bill is also drafted on the lines of section 141B of the Bengal Municipal Act. Where is the difficulty about these clauses is simply unintelligible. There may be some difficulty with regard to (clause 17) apportionment of tax; but that is unavoidable, even if the tax be raised on a provincial basis for distribution among the various local bodies. Exactly the same considerations which will influence the apportionment of the tax in the one case will apply to the other case as well. On the contrary, in accordance with the scheme of local taxation as indicated in the Bill, there will probably be better data available from the local registers to go upon.

(ii) Secondly, the possibility of various local bodies imposing different rates. What harm can there be if the rates differ consistently with differing local conditions within the prescribed maximum? Even if it is desirable to have uniform rates—which many will doubt—well, it is probably the simplest thing to provide for such a rate in the present Bill.

(iii) Thirdly, the question of establishment of a provincial roads fund. The report says that if such a fund be established, the Local Government may be in a stronger position to secure grants from the import duties on motor-cars and petroleum. How little local considerations and even those of big local schemes financed from provincial funds influence the Government of India to contribute from central sources of revenue is not unknown to well-informed people. Their refusal to contribute in the case of the Howrah Bridge, their unwillingness to allow the Railways to be taxed for the benefit of the local bodies are few among the well-known instances of their indifference to local considerations. On the contrary, the scheme of a provincial roads fund may prove an inroad into the domain of local self-government and an encroachment upon the legitimate rights of the local bodies, and as such cannot but be considered an unwelcome step. The proposal, even from the Government benches, has all along been to enlarge the powers of the local bodies in the matter of the taxation and control of motor vehicular traffic—powers which are now enjoyed in respect of other vehicles by local bodies and even in respect of motor transport by the Calcutta Corporation within its local limits. To say that it should appertain to a provincial scheme is to indicate a new policy hitherto unknown in this sphere—a policy which may easily lend itself to a more costly scheme of administration than that contemplated in the present Bill.

We, therefore, maintain that there are no substantial grounds for scraping the Bill altogether and creating widespread disappointment among local bodies by putting off a measure that is really overdue, and further maintain that the line of the new legislation indicated in the majority report is inconsistent with the repeated Government promise and incompatible with the principle of local self-government. At the same time, we do not deny that the Bill as it was referred to the Select Committee does not disclose material defects. But material or trivial, the defects could be remedied by amendments consistent with the objects and the general lines of the Bill. There were, therefore, hardly any sufficient reasons for brushing aside the Bill altogether.

A. DEC. WILLIAMS,

Secretary to the Bengal Legislative Council (offg.).



The Calcutta Gazette

THURSDAY, SEPTEMBER 2, 1926.

PART IV.

Bills introduced in the Bengal Legislative Council, Report of Select Committees presented or to be presented to that Council, and Bills published before introduction in that Council.

**GOVERNMENT OF BENGAL.
LEGISLATIVE DEPARTMENT.**

NOTIFICATION.

No. 2880 L., dated Calcutta, the 26th August, 1926.—The following Bill was introduced in the Bengal Legislative Council on the 19th August, 1926, and is hereby published for general information, together with the Statement of Objects and Reasons annexed thereto.

THE BENGAL VILLAGE SELF-GOVERNMENT (AMENDMENT) BILL, 1926.

A

BILL

to amend the Bengal Village Self-Government Act, 1919.

WHEREAS it is expedient to amend the Bengal Village Self-Government Act, 1919, in the manner hereinafter appearing; Ben. Act V
of 1919.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Village Self-Government (Amendment) Act, 1926.

Amendment of
section 21.

2. In section 21 of the Bengal Village Self-Government Act, 1919—

(1) for sub-section (1), the following shall be substituted, namely:—

“(1) The number of dafadars and chaukidars to be employed in a Union and the salary to be paid to them shall be determined from time to time by the Union Board, subject to the approval of the District Magistrate:

Provided that if the District Magistrate withholds his approval he shall record his reasons for so doing.

(2) The nature and cost of equipment of dafadars and chaukidars shall be determined from time to time by the District Magistrate after considering the views of the Union Board.”

(2) The existing sub-section (2) shall be renumbered as sub-section (3).

STATEMENT OF OBJECTS AND REASONS.

The Union rate realized from the villagers and at present the number of chaukidars and their pay is very high; and in respect of the number and pay, etc., of chaukidars, opinions of the villagers should be highly taken into consideration. As the Government do not defray the expenses about the matter, the all-supreme power should not remain with the District Magistrate. So apparently this provision is made for the encouragement of some power of the Union Board. It is also practically important for the Government to reduce the Chaukidari Tax which will remove public discontent and make the people more loyal, and also such provision was made in the Chaukidari Amendment Act. Under the circumstances it is the most desirable that there can be no question that this Act is far more important than the Chaukidari Act.

SHAH SYED EMDADUL HAQ,

Member-in-charge.

CALCUTTA;

The 16th July, 1926.

A. DE C. WILLIAMS,

Secretary to the Bengal Legislative Council (Offg.).

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

No. 2881 L., dated Calcutta, the 26th August, 1926.—The following Bill was introduced in the Bengal Legislative Council on the 19th August, 1926, and is hereby published for general information, together with the Statement of Objects and Reasons annexed thereto.

**THE BENGAL LOCAL SELF-GOVERNMENT
(AMENDMENT) BILL, 1926.**

A

BILL

*further to amend the Bengal Local Self-Government
Act of 1885.*

WHEREAS it is expedient further to amend the Bengal Local Self-Government Act of 1885, in the manner hereinafter appearing; Ben. Act III
of 1885.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Local Self-Government (Amendment) Act, 1926.

Application of Act.

2. Save as otherwise hereinafter provided, the amendments made by this Act in the Bengal Local Self-Government Act of 1885 (hereinafter referred to as the said Act) apply to section, or portion of section, of the said Act which are in force throughout Bengal.

Amendment of section 13 of Bengal Act III of 1885.

3. In section 13 of the said Act, as in force in areas in which the Bengal Village Self-Government Act, 1919, is not in force, after clause (c) of proviso (2), the following shall be inserted, namely:—

“ or

(d) is a graduate or licentiate of any University, or holds a certificate as a Pleader or Mukhtear or holds a certificate from a Government recognised Madrasha ”.

Amendment of section 65B.

4. At the end of clause (c) of section 65B the following shall be added, namely:—

“ of whom at least one shall be a teacher of primary institutions or such other representative of teachers of primary institutions as the District Board may think fit ”.

STATEMENT OF OBJECTS AND REASONS.

The Local Self-Government Act requires many amendments. But if all amendments are brought, it will require public opinion and it shall have to be given to the Select Committee. By this time some full Amendment Bill was rejected. But in this Bill, graduates, Pleaders and Mukhtars, etc., to be voters and in section 65 B in clause (c) of members other than District Board members at least one shall be a teacher of primary institution or their representative. Because it is fundamental principle that major portion of District Board money shall be spent for primary education. But in spite of this there is no member from primary institution and for this primary education and the teachers of primary institutions suffer very much. To remove their sufferings this Bill is presented.

SHAH SYED EMDADUL HAQ.

Member-in-charge.

CALCUTTA;
The 16th July, 1926.

A. DE C. WILLIAMS,
Secretary to the Bengal Legislative Council (Offg.).



The Calcutta Gazette

THURSDAY, SEPTEMBER 9, 1926.

PART IV.

Bills introduced in the Bengal Legislative Council, Report of Select Committees presented or to be presented to that Council, and Bills published before introduction in that Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

No. 2955 L., dated the 2nd September, 1926.—The following Bill was introduced in the Bengal Legislative Council on the 18th August, 1926, and is hereby published for general information, together with the Statement of Objects and Reasons annexed thereto.

THE CALCUTTA MUNICIPAL (AMENDMENT) BILL, 1926.

A

BILL

to amend the Calcutta Municipal Acts, 1923.

Preamble.	WHEREAS it is expedient to amend the Calcutta Municipal Acts, 1923, in the manner hereinafter appearing, so as to separate Wards Nos. 26, 30, 31 and 32, i.e., the Garden Reach and the Cossipore-Chitpur areas, from the limits of the Calcutta Corporation and to re-constitute Ward No. 26 as Garden Reach Municipality and Wards Nos. 30, 31 and 32 as the Cossipore-Chitpur Municipality.	III of 1923. XI of 1923.
	It is hereby enacted as follows:—	
Short title.	1. This Act may be called the Calcutta Municipal (Amendment) Act, 1926.	
Amendment of section 3 of Act III of 1923.	2. In section 3 of the Calcutta Municipal Act, 1923, omit the figure and words “(ii) the Cossipore-Chitpur Municipality” and the figure and words “(iii) the Garden Reach Municipality” from sub-section (I).	
Amendment of Section 5 of Act III of 1923.	3. In clause (a) of section 5 of the Calcutta Municipal Act, 1923, substitute the words “sixty-five” for the words “seventy-five”.	III of 1923.
Amendment of section 6 of Act III of 1923.	4. In section 6 of the Calcutta Municipal Act, 1923, omit the words “Cossipore-Chitpur” and “Garden Reach” from the two places where they occur.	III of 1923.
Amendment of section 7 of Act III of 1923.	5. In section 7 of the Calcutta Municipal Act, 1923, for the words “or Cossipore-Chitpur” and “or Garden Reach Municipalities” substitute the word “Municipality”.	III of 1923.
Amendment of section 21 of Act III of 1923.	6. In section 21 of the Calcutta Municipal Act, 1923, omit the words “or the Cossipore-Chitpur Municipality” from the clause (i) of sub-section (I) and omit clause (iii).	III of 1923.
Amendment of section 90 of Act III of 1923.	7. In section 90 of the Calcutta Municipal Act, 1923, omit the words “a sum of not less than a lakh of rupees on the execution of original improvement works within the area which formed the Cossipore-Chitpur Municipality at the commencement of this Act and a sum of not less than a lakh of rupees on the execution of original improvement works with the area which formed the Garden Reach Municipality at the commencement of this Act” from the section and the words “Cossipore-Chitpur” and “Garden Reach” from the margin.	III of 1923.
Amendment of section 242 of Act III of 1923.	8. In section 242 of the Calcutta Municipal Act, 1923, insert the words “Cossipore-Chitpur” and “Garden Reach” after the word “Baranagar” in clause (a) of sub-section (I).	III of 1923.
Amendment of Schedule I of Act III of 1923.	9. In Schedule I of the Calcutta Municipal Act, 1923, under <i>Boundaries</i> of Calcutta, substitute the following in place of the boundaries given therein:— “A line drawn along the southern and western bank of the Circular Canal from the River Hooghly to the point where it meets the New Canal; thence eastward along the southern bank of the New Canal to the point where it meets the Beliaghatta Canal; thence westward along the southern bank of the Beliaghatta Canal to the point where it meets Pagladanga Road; thence along the northern and eastern edge of Pagladanga Road to the point where it meets Chingrighatta Road; then along the southern edge of Chingrighatta Road to the point where it meets Tangra Road, South; thence along the eastern and southern edge of Tangra Road, South, to the point where	III of 1923.

(Sections 9—16.)

it meets Topsia Road, North; thence along the eastern and southern edge of Topsia Road, North, to the point where it meets Hughes Road; thence along the eastern edge of Hughes Road to the point where the Town and Suburban High Level Sewers meet; thence along the southern edge of the new road to the point where it meets Topsia Road, South; thence along the southern edge of Topsia Road, South, to the point where it meets Tiljala Masjidbari Lane; thence along the eastern and southern edge of Tiljala Masjidbari Lane to Tiljala Road, formerly known as Maulvi Ahmad Khan Bahadur's Road; thence westward along a line drawn in continuation of the southern edge of Tiljala Masjidbari Lane to the Eastern Bengal Railway line; thence southward along the western edge of the line of that Railway, and westward along the northern edge of the Budge Budge Branch of that Railway, to Russa Road, South; thence southward along the eastern edge of Russa Road, South, to the point where it meets Tollyganj Circular Road; thence along the southern boundary of Tollyganj Circular Road to the point where it meets the southern boundary of the Port Commissioners' land acquired for the purpose of constructing King George's Dock and its connected works, and thence along the southern boundary of the Port Commissioners' land above referred to, as it stands at the commencement of this Act up to the point where it meets Diamond Harbour Road; thence along the southern boundary of Shahapur Road and its continuation the Garagacha Road, the southern edge of the line of old Taratala Road, then northwards along the western edge of the line of old Taratala Road and a line drawn in continuation thereof up to the River Hooghly; thence along the left bank of the River Hooghly to its junction with the Circular Canal."

Amendment of
Schedule III of
Act III of
1923.

10. In Schedule III of the Calcutta Municipal Act, 1923, *omit* the words "Garden Reach", "Belgachia", "Satpukur" and "Cossipore" from column 1, and also the words and figures against the said three words in columns 2, 3 and 4. III of 1923.

Amendment of
Schedule IV of
Act III of
1923.

11. In Schedule IV of the Calcutta Municipal Act, 1923, *omit* the words "Garden Reach", "Belgachia", "Satpukur" and "Cossipore" from column 1, and also the words and figures against the said three words in columns 2 and 3, both under "A.—Non-Muhammadan Constituencies" and "B.—Muhammadan Constituencies". III of 1923.

Amendment of
Schedule VII of
Act III of
1923.

12. In Schedule VII of the Calcutta Municipal Act, 1923, *omit* the words "Garden Reach", "Belgachia", "Satpukur" and "Cossipore" from column 2, and also the figures and words against the said three words in columns 1, 3, 4, 5 and 6. III of 1923.

Amendment of
section 6 of
Act XI of
1923.

13. In section 6 of the Calcutta Municipal (No. II) Act, 1923, *omit* the words "Cossipore-Chitpur" and "Garden Reach". XI of 1923.

Amendment of
section 7 of
Act XI of
1923.

14. In section 7 of the Calcutta Municipal (No. II) Act, 1923, *for* the words and figures "Sub-clauses (i) to (iv)" *read* "Sub-clauses (i), (iv) and (v)". XI of 1923.

Re-constitu-
tion of the
Cossipore-
Chitpur
Municipality.

15. The area excluded from the limits of the Corporation of Calcutta and included within Wards Nos. 30, 31 and 32 of the Corporation of Calcutta is re-constituted a separate Municipality under the Bengal Municipal Act, 1884, and is hereby named the "Cossipore-Chitpur Municipality". III of 1884.

Re-constitu-
tion of the
Garden Reach
Municipality.

16. The area excluded from the limits of the Corporation of Calcutta and included within Ward No. 26 of the Corporation of Calcutta is re-constituted a separate Municipality under the Bengal Municipal Act, 1884, and is hereby named the "Garden Reach Municipality". III of 1884.

(Sections 17—21.)

Formation of a committee to give effect to this Act.

17. A committee consisting of the elected Councillors of the Corporation of Calcutta representing Ward No. 26, *i.e.*, the Garden Reach area, and Wards Nos. 30, 31 and 32, *i.e.*, the Cossipore-Chitpur area, at the time of passing of this Act, two other Councillors or Aldermen from the general body of the said Corporation to be nominated by it within two weeks of the passing of this Act, and three Members of the Bengal Legislative Council nominated by it at the time of passing of this Act, shall be formed to determine and give effect to, as soon as possible, all particulars and arrangements necessary for, and incidental to, the re-constitution of the said area into separate Municipalities, and their action in this respect shall be final.

Election of Commissioners for, and commencement of working of, the Cossipore-Chitpur and Garden Reach Municipalities.

18. The election of Commissioners for the Garden Reach and Cossipore-Chitpur Municipalities hereby re-constituted shall take place, and the working of the said Municipalities shall commence, and the elected Councillors representing Wards Nos. 26, 30, 31 and 32 of the Corporation of Calcutta at the passing of this Act shall cease to be such, at such time and in such manner as the committee mentioned in section 16 above shall determine, and until such time the administration of the Corporation of Calcutta over the said Wards Nos. 26, 30, 31 and 32 shall continue as before the passing of this Act.

Loans or other engagements by the Corporation of Calcutta not to affect the operation of this Act.

19. Any loans taken or engagements entered into by or on behalf of the Corporation of Calcutta, whilst the aforesaid Wards Nos. 26, 30, 31 and 32 were under its administration, shall not in any way affect the operation of this Act and the re-constitution of the aforesaid areas into separate Municipalities as hereby contemplated.

Cancellation of assessment made by the Corporation of Calcutta.

20. The assessment to rates, taxes and fees made or proposed to be made by the Corporation of Calcutta, in respect of Wards Nos. 26, 30, 31 and 32, under Part IV of the Calcutta Municipal Act, 1923, whilst those areas were under the jurisdiction of the said Corporation, is hereby cancelled.

III of 1923.

Powers of the Commissioners of the Cossipore-Chitpur and Garden Reach Municipalities.

21. Notwithstanding anything to the contrary contained in the Calcutta Municipal Act, 1923, or the Bengal Municipal Act, 1884, or any other Act, it will be competent for the Commissioners of the Cossipore-Chitpur and Garden Reach Municipalities hereby re-constituted to alter, modify, revise, cancel, or give effect to, any act done, or resolution passed, or assessment made or proposed to be made by the Corporation of Calcutta, in respect of, or in any way concerning, Wards Nos. 30, 31 and 32 and Ward No. 26 respectively, whilst those areas were under the jurisdiction of the said Corporation.

III of 1923.
III of 1884.

STATEMENT OF OBJECTS AND REASONS.

The Calcutta Municipal Act, III of 1923, as it was originally framed, did not include in its local extent the area under the former Cossipore-Chitpur and Garden Reach Municipalities, and the Bill, even when it emerged from the Select Committee, did not include the Cossipore-Chitpur area or the major portion of Garden Reach area. Those areas were amalgamated with Calcutta in the teeth of vehement opposition by the rate-payers and against the deliberate and considered recommendation to the contrary made by the Amalgamation Commission appointed by Government. The motion for amalgamation was carried by a very narrow majority in the Bengal Legislative Council. It was generally thought that the step of increasing the liabilities and obligations of the Corporation of Calcutta, by adding to the already extensive city the vast areas of Cossipore-Chitpur and Garden Reach, comprising many mills, factories and business houses, was a menace to the health and population of the city. Even before the amalgamation of these areas the Corporation of Calcutta was not in a position to meet its statutory obligations in a proper and satisfactory way. And this has been

much more the case after the amalgamation, as it was bound to be, both in respect of the city proper and the added areas, and the position has been rendered worse on account of the financial difficulties of the Corporation. For this reason, many good schemes have either been abandoned or postponed, and there is very little hope of the said scheme being ever carried out if the vast areas are any longer kept within the limits of the Corporation of Calcutta. On the other hand, the people of the added areas will not certainly for many years to come enjoy the amenities which are now being enjoyed by the residents of the city, though the former have been called upon to pay rates and taxes, many times more than their former assessment, ignoring the salutary provision made by the Legislative for levying a lower rate under section 7 of the Calcutta Municipal (No. II) Act XI of 1923, thus causing universal dissatisfaction amongst the rate-payers of that area. Moreover, the administration by the Calcutta Corporation is costlier than that by the old Municipality, which was highly spoken of and commended in successive Government Reports, and under which the people enjoyed many privileges and facilities of which they have now been deprived. The Garden Reach area, which comprises $4\frac{1}{2}$ square miles, is mostly undeveloped, and consists extensively of jungle, ditches, tanks and paddy lands, without lights, roads, water or conservancy.

I desire to acknowledge my indebtedness to Rai Harendra Nath Chaudhuri, of whose Draft Bill the present Bill is a reproduction, with necessary additions and alterations, so as to include the Garden Reach area.

A. SUHRAWARDY,

Member-in-charge.

CALCUTTA;

The 16th July, 1926.

A. DE C. WILLIAMS,

Secretary to the Bengal Legislative Council (Offg.).



The Calcutta Gazette

THURSDAY, JULY 8, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 25th March, 1926, and is hereby promulgated for general information :—

ACT NO. XV OF 1926.

An Act further to amend the Legal Practitioners Act, 1879.

WHEREAS it is expedient further to amend the Legal Practitioners Act, 1879, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Legal Practitioners (Amendment) Act, 1926.

Amendment of section 3, Act XVIII of 1879.

2. For the definition of "tout" in section 3 of the Legal Practitioners Act, 1879 (hereinafter referred to as the said Act), the following definition shall be substituted, namely :—

" 'tout' means a person—

(a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business ; or who proposes to any legal practitioner or to any person interested in any legal business to procure in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business ; or

(b) who for the purposes of such procurement frequents the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort."

Amendment of
section 36,
Act XVIII of 1879.

3. In section 36 of the said Act,—

(a) in sub-section (1) after the word "satisfaction" the words "or to the satisfaction of any subordinate Court as provided in sub-section (2A)" shall be inserted;

(b) to sub-section (1) the following *Explanation* shall be added, namely:—

"*Explanation.*—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practise as legal practitioners in any Court or revenue office, shall be evidence of the general repute of such person for the purposes of this sub-section."

(c) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub-section (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority:

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard."

(d) after sub-section (5) the following sub-section shall be inserted, namely:—

"(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 25th March, 1926, and is hereby promulgated for general information :—

ACT No. XXI OF 1926.

An Act to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties.

WHEREAS it is expedient to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties ; It is hereby enacted as follows :—

Short title,
extent and
commencement.

1. (1) This Act may be called the Legal Practitioners (Fees) Act, 1926.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Interpretation.

2. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(a) "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 ; and

(b) a legal practitioner shall not be deemed to "act" if he only pleads, or to agree to "act" if he agrees only to plead.

XVIII of
1879.

Agreement for
engagement of
legal practitioner.

3. Any legal practitioner who acts or agrees to act for any person may by private agreement settle with such person the terms of his engagement and the fee to be paid for his professional services.

Right of legal
practitioner
to sue for fees.

4. Any such legal practitioner shall be entitled to institute and maintain legal proceedings for the recovery of any fee due to him under the agreement, or, if no such fee has been settled, a fee computed in accordance with the law for the time being in force in regard to the computation of the costs to be awarded to a party in respect of the fee of his legal practitioner.

Liability of legal
practitioner to
be sued.

5. No legal practitioner who has acted or agreed to act shall, by reason only of being a legal practitioner, be exempt from liability to be sued in respect of any loss or injury due to any negligence in the conduct of his professional duties.

Repeals

6. Sections 28 to 31 of the Legal Practitioners Act, 1879, and sections 17, 19 and 28 of the Bombay Pleaders Act, 1920, are hereby repealed.

XVIII of
1879.
Bom. Act
XVII of
1920.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 25th March, 1926, and is hereby promulgated for general information :—

ACT No. XXII OF 1926.

An Act to amend the law relating to the appointment of legal practitioners in civil suits and for this purpose further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient to amend the law relating to the appointment of legal practitioners in civil suits and for this purpose further to amend the Code of Civil Procedure, 1908 ; It is hereby enacted as follows :—

V of 1908.

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of Order III, Schedule I, Act V of 1908.

2. In Order III of Schedule I to the Code of Civil Procedure, 1908,—

V of 1908.

(a) in rule 1 for the words "duly appointed to act" the words "appearing, applying or acting, as the case may be," shall be substituted; and

(b) for rule 4 the following rule shall be substituted, namely :—

Appointment of pleader.

"4. (1) No pleader shall act for any person in any Court, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognized agent or by some other person duly authorised by or under a power of attorney to make such appointment.

(2) Every such appointment shall be filed in Court and shall be deemed to be in force until determined with the leave of the Court by a writing signed by the client or the pleader, as the case may be, and filed in Court, or until the client or the pleader dies, or until all proceedings in the suit are ended so far as regards the client.

(3) For the purposes of sub-rule (2) an application for review of judgment, an application under section 144 or section 152 of this Code, any appeal from any decree or order in the suit and any application or act for the purpose of obtaining copies of documents or return of documents produced or filed in the suit or of obtaining refund of monies paid into the Court in connection with the suit shall be deemed to be proceedings in the suit.

(4) The High Court may, by general order, direct that, where the person by whom a pleader is appointed is unable to write his name, his mark upon the document appointing the pleader shall be attested by such person and in such manner as may be specified by the order.

(5) No pleader who has been engaged for the purpose of pleading only shall plead on behalf of any party, unless he has filed in Court a memorandum of appearance signed by himself and stating—

- (a) the names of the parties to the suit,
- (b) the name of the party for whom he appears, and
- (c) the name of the person by whom he is authorized to appear :

Provided that nothing in this sub-rule shall apply to any pleader engaged to plead on behalf of any party by any other pleader who has been duly appointed to act in Court on behalf of such party."

Repeals.

3. Section 10 and Form C in Schedule II of the Bombay Pleaders Act, 1920, are hereby repealed.

Bom. Act
XVII of
1920.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 25th March, 1926, and is hereby promulgated for general information :—

ACT No. XXIV OF 1926.

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing; it is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1926.

(2) It shall come into force on the 1st day of April, 1926.

Insertion of new section 19A in Act XI of 1922.

2. After section 19 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

Supply of information regarding dividends.

"19A. The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder."

Amendment of section 51, Act XI of 1922.

3. In clause (c) of section 51 of the said Act, after the words "mentioned in" the word and figures "section 19A" shall be inserted.

Amendment of section 52, Act XI of 1922.

4. In section 52 of the said Act, after the words "mentioned in" the words and figures "section 19A or" shall be inserted.

Amendment of section 57, Act XI of 1922.

5. (1) In sub-section (1) of section 57 of the said Act, for the word "assessee" the word "person" shall be substituted.

(2) For sub-section (2) of the same section the following sub-sections shall be substituted, namely :—

"(2) Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the total income of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super-tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year.

(3) If in any year the amount of any dividend or the aggregate amount of any dividend paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the

law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India, and no order under sub-section (2) has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the shareholder."

(3) Sub-section (3) of the same section shall be re-numbered as sub-section (4), and in that sub-section for the words "an assessee" the words "another person" and for the word "assessee", where it occurs for the second time, the word "person" shall be substituted.

Amendment of section 58, Act XI of 1922.

6. To sub-section (1) of section 58 of the said Act the following proviso shall be added, namely :—

"Provided that sub-sections (4) to (9) of section 18 shall apply, so far as may be, to the assessment, collection and recovery of super-tax under sub-section (2) or sub-section (3) of section 57."

Amendment of section 66, Act XI of 1922.

7. To section 66 of the said Act the following sub-section shall be added, namely :—

"(8) For the purposes of this section "the High Court" means—

(a) in relation to the North-West Frontier Province and British Baluchistan, the High Court of Judicature at Lahore ;

(b) in relation to the province of Ajmer-Merwara, the High Court of Judicature at Allahabad ; and

(c) in relation to the province of Coorg, the High Court of Judicature at Madras."

Insertion of new section 66A in Act XI of 1922.

8. After section 66 of the said Act the following section shall be inserted, namely :—

References to be heard by Benches of High Courts, and appeal to lie in certain cases to Privy Council.

"66A. (1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force. V of 1908.

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of the High Court : V of 1908.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66 :

Provided, further, that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

(5) Nothing in this section shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee."

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 25th March 1926, and is hereby promulgated for general information :—

ACT NO. XXV OF 1926.

An Act further to amend the Indian Divorce Act.

Whereas it is expedient further to amend the Indian 1869.
Divorce Act, for the purpose hereinafter appearing ; it is hereby enacted as follows :—

Short title.

Amendment of
section 2, Act IV
of 1869.

1. This Act may be called the Indian Divorce (Amendment) Act, 1926.

2. For the second, third and fourth paragraphs of section 2 of the Indian Divorce Act the following shall be substituted, namely :—

“ Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner professes the Christian religion,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition,

or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition.”

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 25th March 1926, and is hereby promulgated for general information :—

ACT No. XXVII OF 1926.

An Act to explain certain provisions of the Transfer of Property Act, 1882.

WHEREAS it is expedient to explain certain provisions of the Transfer of Property Act, 1882; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1926.

Amendment of section 3, Act IV of 1882.

2. In section 3 of the Transfer of Property Act, 1882, IV of 1882 after the definition of the word "instrument" the following shall be inserted, namely :—

"'attested', in relation to an instrument, means attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary."

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, JULY 29, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 25th March 1926, and is hereby promulgated for general information :—

ACT NO. XIX OF 1926.

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt; It is hereby enacted as follows :—

II of 1896.
VI of 1898.
X of 1923.

Short title, extent
and duration.

1. (1) This Act may be called the Indian Finance Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 4 shall remain in force only up to the 31st day of March, 1927.

Fixation of salt duty.

2. The provisions of section 7 of the Indian Salt Act, XII of 1882, 1882, shall, in so far as they enable the Governor-General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1926, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Repeal of Act II of 1896.

3. The Cotton Duties Act, 1896, is hereby repealed : II of 1896.

Provided that any person who hereafter exports by sea any goods on which duty has been paid under the said Act may apply, in the manner provided therein, for the repayment as drawback of the duty so paid, and the Customs-collector shall allow such drawback, if he is satisfied that such person would have been entitled to receive payment thereof if the said Act had not been repealed.

Postal rates

4. With effect from the 1st day of April 1926, the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. VI of 1898.

Amendment of Act X of 1923.

5. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1926" the figures "1927" shall be substituted. X of 1923.

Income-tax and super-tax.

6. (1) Income-tax for the year beginning on the 1st day of April 1926, shall be charged at the rates specified in Part I of the Second Schedule.

(2) The rates of super-tax for the year beginning on the 1st day of April 1926, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule. XI of 1922.

(3) For the purposes of the Second Schedule, "total income" means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922.

Appropriation of share of Dawes annuities to reduction or avoidance of debt.

7. The balance of all monies accruing to the Governor-General in Council after the 31st day of March 1926, as the share of British India in the annuities payable by Germany under the agreement between the Allied Governments and the German Government signed at London on the 30th day of August 1924, which remains after payment out of such monies of such amounts as may be payable to local authorities or other persons by way of reparation for loss or damage due to enemy action in the late war, shall be appropriated and applied for the purpose of the reduction or avoidance of public debt.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 4.]

"THE FIRST SCHEDULE.**INLAND POSTAGE RATES.**

[See section 7.]

Letters.

For a weight not exceeding two and a half tolas	...	...	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	...	...	One anna.

Postcards.

Single	...	...	Half an anna.
Reply	...	...	One anna.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof	...	...	Half an anna.
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Registered Newspapers.

For a weight not exceeding eight tolas	...	...	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	...	...	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	...	...	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	...	...	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	...	...	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	...	...	Four annas."

SCHEDULE II.

[See section 6.]

PART I.*Rates of Income-tax.*

- A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

	Rate.
(1) When the total income is less than Rs. 2,000	Nil.
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards	One anna and six pies in the rupee.

- B. In the case of every company and registered firm, whatever its total income
- | | |
|-----|-------------------------------------|
| ... | One anna and six pies in the rupee. |
|-----|-------------------------------------|

PART II.

Rates of Super-tax.

In respect of the excess over fifty thousand rupees of total income :—

Rate.

- | | | | | |
|---|-----|-----|-----|--------------------------------------|
| (1) in the case of every company | ... | ... | ... | One anna in the rupee. |
| (2) (a) in the case of every Hindu undivided family— | | | | |
| (i) in respect of the first twenty-five thousand rupees of the excess | ... | ... | ... | Nil. |
| (ii) for every rupee of the next twenty-five thousand rupees of such excess | ... | ... | ... | One anna in the rupee. |
| (b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess | ... | ... | ... | One anna in the rupee. |
| (c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company— | | | | |
| (i) for every rupee of the second fifty thousand rupees of such excess | ... | ... | ... | One and a half annas in the rupee. |
| (ii) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Two annas in the rupee. |
| (iii) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Two and a half annas in the rupee. |
| (iv) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Three annas in the rupee. |
| (v) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Three and a half annas in the rupee. |
| (vi) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Four annas in the rupee. |
| (vii) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Four and a half annas in the rupee. |
| (viii) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Five annas in the rupee. |
| (ix) for every rupee of the next fifty thousand rupees of such excess | ... | ... | ... | Five and a half annas in the rupee. |
| (x) for every rupee of the remainder of the excess | ... | ... | ... | Six annas in the rupee. |

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, OCTOBER 14, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd September, 1926, and is hereby promulgated for general information :—

ACT No. XXIX OF 1926.

An Act further to amend the Workmen's Compensation Act, 1923.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923 ; It is hereby enacted as follows :—

VIII of
1923.

Short title.

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1926.

Amendment of
section 3, Act VIII
of 1923.

2. In sub-section (2) of section 3 of the Workmen's Compensation Act, 1923, for the word "hides or skins" the following shall be substituted, namely :—

"or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax".

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXIII OF 1926.

An Act further to amend the Indian Companies Act, 1913, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purpose hereinafter appearing ; It is hereby enacted as follows :— VII of 1913.

Short title.

1. This Act may be called the Indian Companies (Amendment) Act, 1926.

Amendment of section 26, Act VII of 1913.

2. In sub-section (1) of section 26 of the Indian Companies Act, 1913, after the word "science" the word "religion" shall be inserted. VII of 1913.

L. GRAHAM,
Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, OCTOBER 21, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd September 1926, and is hereby promulgated for general information :—

ACT NO. XXVIII OF 1926.

*An Act to amend the Usurious Loans Act, 1918,
for certain purposes.*

WHEREAS it is expedient to amend the Usurious Loans Act, 1918, for certain purposes hereinafter appearing; X of 1918. it is hereby enacted as follows :—

Short title

1. This Act may be called the Usurious Loans (Amendment) Act, 1926.

Amendment of section 2, Act X of 1918.

2. To sub-section (3) of section 2 of the Usurious Loans Act, 1918 (hereinafter referred to as the said Act), X of 1918. the following shall be added after clause (b), namely :—

“ or

(c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act ”.

Amendment of section 3, Act X of 1918.

3. In section 3 of the said Act—

(i) in clause (i) of the proviso to sub-section (1) for the word “ six ” the word “ twelve ” shall be substituted ; and

(ii) to sub-section (3) after the words “ in respect of a loan ” the words “ or for the redemption of any such security ” shall be added.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 3rd September 1926, and is hereby promulgated for general information :—

ACT No. XXX OF 1926.

An Act further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes.

Whereas it is expedient further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Negotiable Instruments (Interest) Act, 1926.

Amendment of section 80, Act XXVI of 1881.

2. In section 80 of the Negotiable Instruments Act, 1881, for the words and figures "except in cases provided for by the Code of Civil Procedure, section 532" the words "notwithstanding any agreement relating to interest between any parties to the instrument" shall be substituted. XXVI of 1881.
V of 1908.

Amendment of section 117, Act XXVI of 1881.

3. In section 117 of the same Act, the words and brackets "(except in cases provided for by the Code of Civil Procedure, section 532,)" shall be omitted. V of 1908.

Amendment of First Schedule to Act V of 1908.

4. In the First Schedule to the Code of Civil Procedure, 1908— V of 1908.

(1) in sub-rule (2) of rule 2 of Order XXXVII, for the words beginning with the words "for any sum not exceeding" and ending with the words "executed forthwith" the following shall be substituted, namely :—

"(a) for the principal sum due on the instrument and for interest calculated in accordance with the provisions of section 79 or section 80, as the case may be, of the Negotiable Instruments Act, 1881, up to the date of the institution of the suit, or for the sum mentioned in the summons, whichever is less, and for interest up to the date of the decree at the same rate or at such other rate as the Court thinks fit ; and XXVI of 1881.

(b) for such subsequent interest, if any, as the Court may order under section 34 of this Code ; and

(c) for such sum for cost as may be prescribed :

Provided that, if the plaintiff claims more than such fixed sum for costs, the costs shall be ascertained in the ordinary way.

(3) A decree passed under this rule may be executed forthwith ; and

(2) in Form No. 4 in Appendix B, after the words "for costs" the words "together with such interest, if any, from the date of the institution of the suit as the Court may order" shall be inserted.

L. GRAHAM,

Secretary to the Government of India,



The Calcutta Gazette

THURSDAY, OCTOBER 28, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT NO. XL OF 1926.

An Act to amend the provisions of section 33 of the Indian Succession Act, 1925.

WHEREAS it is expedient to amend the provisions of section 33 of the Indian Succession Act, 1925, so as to provide more liberally for the surviving widow or husband where there are no lineal descendants in the case of a total intestacy ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Succession (Amendment) Act, 1926.

Amendment of section 33, Act XXXIX of 1925.

2. To clause (b) of section 33 of the Indian Succession Act, 1925 (hereinafter referred to as the said Act), before the words "If he has left no lineal descendant" there shall be prefixed the words "Save as provided by section 33A".

Insertion of new section 33A in Act XXXIX of 1925.

Special provision where intestate has left widow and no lineal descendants.

3. After section 33 of the said Act the following section shall be inserted, namely :—

"33A. (1) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

(2) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment..

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees, with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(4) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(5) This section shall not apply—

(a) to the property of :—

- (i) any Indian Christian,
- (ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or
- (iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section 24 of the Special Marriage Act, 1872, regulated by the provisions of this Act; III of 1872.

(b) unless the deceased dies intestate in respect of all his property."

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXII OF 1926.

*An Act further to amend the Administrator-General's
Act, 1913.*

WHEREAS it is expedient further to amend the Administrator-General's Act, 1913, for the purposes III of 1913. hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called, the Administrator-General's (Amendment) Act, 1926.

Amendments of
sections 9, 31 and
37, Act III of 1913.

2. In sections 9, 31 and 37 of the Administrator- III of 1913. General's Act, 1913, for the words "one thousand" the words "two thousand" shall be substituted.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information:—

ACT NO. XXXVI OF 1926.

An Act further to amend the Code of Criminal Procedure, 1898, for a certain purpose.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Third Amendment) Act, 1926.

Amendment of section 99A, Act V of 1898.

2. In sub-section (1) of section 99A of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Act),—

(a) after the words "seditious matter" the words "or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects" shall be inserted; and

(b) after the word and figures "section 124A" the words and figures "or section 153A" shall be inserted.

Amendment of section 99B, Act V of 1898.

3. In section 99B of the said Act, for the words "seditious matter" the words "seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A" shall be substituted.

Amendment of section 99D, Act V of 1898.

4. In sub-section (1) of section 99D of the said Act for the words "seditious matter of the nature" the words "seditious or other matter of such a nature as is" shall be substituted.

Amendment of section 99E, Act V of 1898.

5. In section 99E of the said Act, for the words "which are alleged to be seditious matter" the words "in respect of which the order of forfeiture was made" shall be substituted.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXVII OF 1926.

*An Act to amend the Indian Succession Act, 1925,
for a certain purpose.*

WHEREAS it is expedient to amend the Indian Succession Act, 1925, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

XXXIX
of 1925.

Short title and
commencement.

1. (1) This Act may be called the Indian Succession (Amendment) Act, 1926.

(2) It shall come into force on the 1st day of January, 1927.

Amendment of
section 57,
Act XXXIX of
1925.

2. Section 57 of the Indian Succession Act, 1925, shall be renumbered as sub-section (1) of section 57, and to that section the following sub-section shall be added, namely :—

XXXIX
of 1925.

“(2) The provisions of section 63 shall apply to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina on or after the 1st day of January, 1927, to which those provisions are not applied by sub-section (1).”

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXVIII OF 1926.

An Act to provide for the constitution of Bar Councils in British India and for other purposes.

WHEREAS it is expedient to provide for the constitution and incorporation of Bar Councils for certain Courts in British India, to confer powers and impose duties on such Bar Councils, and to consolidate and amend the law relating to legal practitioners entitled to practise in such Courts ; It is hereby enacted as follows :—

Preliminary.

Short title, extent,
application and
commencement.

1. (1) This Act may be called the Indian Bar Councils Act, 1926.

(2) It extends to the whole of British India, and shall apply to the High Courts of Judicature at Fort William in Bengal, and at Madras, Bombay, Allahabad, Patna and Rangoon and to such other High Courts within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts to which this Act applies. x of 1897.

(3) This section and sections 2, 17, 18 and 19 shall come into force at once ; and the Governor General in Council may, by notification in the Gazette of India, direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in respect of any High Court to which this Act applies on such date as he may by the notification appoint.

Interpretation.

2. In this Act, unless there is anything repugnant in subject or context,—

(a) "advocate" means an advocate entered in the roll of advocates of a High Court under the provisions of this Act ;

(b) "Advocate-General" includes, where there is no Advocate-General, the Government Advocate and, where there is no Advocate-General or Government Advocate, such officer as the Local Government may declare to be the Advocate-General for the purposes of this Act ;

(c) "High Court" means a High Court to which this Act applies ; and

(d) "prescribed" means prescribed by rules made under this Act.

Constitution of Bar Councils.

Constitution
incorporation
of Bar Councils.

3. (1) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(2) Every Bar Council so constituted shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the name of the Bar Council of the High Court for which it has been constituted sue and be sued.

Composition of Bar Councils.

4. (1) Every Bar Council shall consist of fifteen members, of whom—

- (a) one shall be the Advocate-General;
- (b) four shall be persons nominated by the High Court, of whom not more than two may be Judges of that Court; and
- (c) ten shall be elected by the advocates of the High Court from amongst their number.

(2) Of the elected members of every Bar Council not less than five shall be persons who have for not less than ten years been entitled as of right to practise in the High Court for which the Bar Council has been constituted.

(3) Of the elected members of the Bar Councils to be constituted for the High Courts of Judicature at Fort William in Bengal and at Bombay such proportion as the High Court may direct in each case shall be persons who have, for such minimum period as the High Court may determine, been entitled to practise in the High Court in the exercise of its original jurisdiction, and such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland or members of the Faculty of Advocates in Scotland.

(4) There shall be a Chairman and Vice-Chairman of each Bar Council elected by the Council in such manner as may be prescribed:

Provided that the Advocates-General of Bengal, Madras and Bombay shall be Chairmen *ex-officio*, respectively, of the Bar Councils constituted for the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay.

Special provisions regarding constitution of first Bar Councils.

5. (1) Notwithstanding anything contained in clause (c) of sub-section (1) of section 4, the elected members of the first Bar Council constituted under this Act for any High Court shall be elected by and from amongst the advocates, vakils and pleaders who are on the date of the election entitled as of right to practise in the High Court.

(2) The terms of office of the nominated and elected members of any such first Bar Council shall be three years from the date of the first meeting of the Council.

Power to make rules regarding constitution and procedure of Bar Councils.

6. (1) Rules, consistent with this Act, may be made to provide for the following matters, namely:—

- (a) the manner in which elections of members of the Bar Council shall be held; the method of determining, in accordance with the provisions of sub-sections (2) and (3) of section 4, the candidates who shall be declared to have been elected; the manner in which the result of elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided;
- (b) the terms of office of nominated and elected members of the Council;
- (c) the filling of casual vacancies in the Council;
- (d) the convening of meetings of the Council, and the quorum necessary for the transaction of business thereat;
- (e) the manner of election and the respective terms of office of the Chairman, in cases where the Chairman is to be elected, and of the Vice-Chairman; and
- (f) any matter incidental or ancillary to any of the foregoing matters.

(2) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(3) No election of a member or members to the Council shall be called in question on the ground that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court exercises jurisdiction.

(4) Rules made under clause (b) of sub-section (1) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined.

Power of Bar
Councils to make
bye-laws.

7. The Bar Council may make bye-laws consistent with this Act and any rules made thereunder to provide for any of the following matters, namely :—

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary, and the pay and allowances and other conditions of service of such officers and servants; and

(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

Admission and enrolment of advocates.

Enrolment of
advocates.

8. (1) No person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under this Act :

Provided that nothing in this sub-section shall apply to any attorney of the High Court.

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which this section comes into force in respect thereof; and

(b) all other persons who have been admitted to be advocates of the High Court under this Act :

Provided that such persons shall have paid in respect of enrolment the stamp duty, if any, chargeable under the Indian Stamp Act, 1899; and a fee, payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in clause (a) and in other cases such amount as may be prescribed.

II of 1899.

(3) The High Court shall issue a certificate of enrolment to every person enrolled under this section.

(4) The High Court shall send to the Bar Council a copy of the roll as prepared under this section, and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made.

(5) The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it.*

Qualifications and admission of advocates.

9. (1) The Bar Council may, with the previous sanction of the High Court, make rules to regulate the admission of persons to be advocates of the High Court :

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

- (a) the qualifications to be possessed by persons applying for admission as advocates ;
- (b) the form and manner in which applications shall be made to the High Court for admission ;
- (c) the giving of notice by the High Court to the Bar Council of all such applications ;
- (d) the hearing by the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ; and
- (e) the charging of fees payable to the Bar Council in respect of enrolment.

(3) Rules made under this section shall provide that no woman shall be disqualified for admission to be an advocate by reason only of her sex.

(4) Nothing in this section or in any other provision of this Act shall be deemed to limit or in any way affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications to be possessed by persons applying to practise in those High Courts respectively in the exercise of their original jurisdiction or the powers of those High Courts to grant or refuse, as they think fit, any such application.

Misconduct.

Punishment of advocate for misconduct.

10. (1) The High Court may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional or other misconduct.

(2) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty of misconduct, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty.

Tribunal of Bar Council.

11. (1) Where any case is referred for inquiry to the Bar Council under section 10, the case shall be inquired into by a Committee of the Bar Council (hereinafter referred to as the Tribunal).

(2) The Tribunal shall consist of not less than three and not more than five members of the Bar Council appointed for the purpose of the inquiry by the Chief Justice or Chief Judge of the High Court, and one of the members so appointed shall be appointed to be the President of the Tribunal.

Procedure in inquiries.

12. (1) The High Court shall make rules to prescribe the procedure to be followed by Tribunals and by District Courts, respectively, in the conduct of inquiries referred under section 10.

(2) The finding of a Tribunal on an inquiry referred to the Bar Council under section 10 shall be forwarded to the High Court through the Bar Council, and the finding of a District Court on such an inquiry shall be forwarded direct to the High Court which shall cause a copy thereof to be sent to the Bar Council.

(3) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate-General, and shall afford the advocate concerned and the Bar Council and the Advocate-General an opportunity of being heard before orders are passed in the case.

(4) The High Court may thereafter either pass such final orders in the case as it thinks fit or refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court, as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in sub-section (3) and pass final orders thereon.

(5) In passing final orders the High Court may pass such order as regards the payment of the costs of the inquiry and of the hearing in the High Court as it thinks fit.

(6) The High Court may, of its own motion or on application made to it in this behalf, review any order passed under sub-section (4) or sub-section (5) and maintain, vary or rescind the same, as it thinks fit.

(7) When any advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the roll of advocates of the High Court, and when an advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of any advocate so suspended or removed shall be recalled.

Powers of the
Tribunal and Courts
in inquiries.

13. (1) For the purposes of any such inquiry as aforesaid, a Tribunal or a District Court shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters, V of 1908, namely:—

- (a) enforcing the attendance of any person and examining him upon oath,
- (b) compelling the production of documents, and
- (c) issuing commissions for the examination of witnesses:

Provided that the Tribunal shall not have power to require the attendance of the presiding officer of any Court save with the previous sanction of the High Court or, in the case of an officer of a Criminal or Revenue Court of the Local Government.

(2) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code; and a Tribunal shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898. XLV of 1860.

V of 1908.

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

- (a) the local limits of the jurisdiction of a Tribunal shall be those of the jurisdiction of the High Court by which the Tribunal has been constituted; and

(b) a Tribunal may send to any Civil Court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of a document required by the Tribunal, or any commission which it desires to issue, and the Civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before a Tribunal or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872, and the provisions of that section shall apply accordingly. I of 1872.

Miscellaneous.

Right of advocates to practise.

14. (1) An advocate shall be entitled as of right to practise—

(a) subject to the provisions of sub-section (4) of section 9, in the High Court of which he is an advocate, and

(b) save as otherwise provided by sub-section (2) or by or under any other law for the time being in force, in any other Court in British India and before any other Tribunal or person legally authorised to take evidence, and

(c) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise.

(2) Where rules have been made by any High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, or in the case of a High Court for which a Bar Council has been constituted under this Act, by such Bar Council under section 15, regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court, such advocates shall not be entitled to practise therein otherwise than subject to such conditions. X of 1897.

(3) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction.

General power of Bar Councils to make rules.

15. A Bar Council may, with the previous sanction of the High Court for which it is constituted, make rules consistent with this Act to provide for and regulate any of the following matters, namely :—

(a) the rights and duties of the advocates of the High Court and their discipline and professional conduct;

(b) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court;

(c) the giving of facilities for legal education and training and the holding and conduct of examinations by the Bar Council;

- (d) the charging of fees payable to the Bar Council in respect of the enjoyment of educational facilities provided, or of the right to appear at examinations held, by the Bar Council ;
- (e) the investment and management of the funds of the Bar Council ; and
- (f) any other matter in respect of which the High Court may require rules to be made under this section.

Power to fix fees payable as costs.

16. The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto.

Indemnity against legal proceedings.

17. No suit or other legal proceeding shall lie against a Bar Council or any Committee, Tribunal or member of a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder.

Publication of rules.

18. All rules made under this Act shall be published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court by which or with whose sanction the rules are made exercises jurisdiction.

Amendment of enactments, etc.

19. (1) When sections 8 to 16 come into force in respect of any High Court, any enactment mentioned in the first column of the Schedule which is in force in any province in which the High Court exercises jurisdiction shall, for the purpose of its application to that province, be amended to the extent and in the manner specified in the second column of the Schedule.

(2) When sections 8 to 16 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in such Letters Patent, and such Letters Patent shall, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(3) When sections 8 to 16 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders' Act, 1920, except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an advocate of the High Court under this Act, and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court.

Bom. Act
XVII of 1920.

(4) When this Act has come into force in respect of any High Court, any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall, unless such a construction is repugnant to the context or to any provision made by or under this Act, be construed as applying to advocates of the High Court enrolled under this Act.

• THE SCHEDULE.

(See section 19.)

AMENDMENT OF ENACTMENTS.

Enactments amended.	Extent and manner of amendment.
The Legal Practitioners Act, 1879.	(1) In section 4, after the words "with the permission of the Court" the words and figures "or, in the case of a High Court in respect of which the Indian Bar Councils Act, 1926, is in force, subject to rules made under that Act" shall be inserted. (2) In section 6, clauses (a) and (b), after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted. (3) To section 38 the following words and figures shall be added, namely :— "and, except as provided by section 36, nothing in this Act applies to persons enrolled as advocates of any High Court under the Indian Bar Councils Act, 1926." (4) In section 41, sub-section (1), after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted.
The Indian Stamp Act, 1899.	In article 30 of the First Schedule after the words "High Court", where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Madras Stamp (Amendment) Act, 1922.	In article 25 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Bengal Stamp (Amendment) Act, 1922.	In article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Indian Stamp (Punjab Amendment) Act, 1922.	In article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Assam Stamp (Amendment) Act, 1922.	In article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXIX OF 1926.

An Act further to amend the Provincial Insolvency Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920, for the purposes herein- V of 1920. after appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provincial Insolvency (Amendment) Act, 1926.

Amendment of section 33, Act V of 1920.

2. In sub-section (3) of section 33 of the Provincial insolvency Act, 1920 (hereinafter referred to as the said V of 1920. Act), for the word "insolvent", where it occurs for the last time, the word "receiver" shall be substituted.

Insertion of new section 54A in Act V of 1920.

3. After section 54 of the said Act the following section shall be inserted, namely :—

By whom petitions for annulment may be made.

"54A. A petition for the annulment of any transfer under section 53, or of any transfer, payment, obligation or judicial proceeding under section 54, may be made by the receiver or, with the leave of the Court, by any creditor who has proved his debt and who satisfies the Court that the receiver has been requested and has refused to make such petition."

Insertion of new section 59A in Act V of 1920.

4. After section 59 of the said Act the following section shall be inserted, namely :—

Power to require information regarding insolvent's property.

"59A. (1) The Court, if specially empowered in this behalf by an order of the Local Government, or any officer of the Court so empowered by a like order, may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court or such officer, as the case may be, may deem capable of giving information respecting the insolvent or his dealings or property, and the Court or such officer may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court or such officer at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court or such officer, the Court or such officer may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court or such officer may examine any person so brought before it or him concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner".

Insertion of new
section 67A in
Act V of 1920.

Committee of
inspection.

5. After section 67 of the said Act the following section shall be inserted, namely :—

“67A. (1) The Court may, if it thinks fit, authorise the creditors who have proved their debts to appoint a committee of inspection for the purpose of superintending the administration of the insolvent's property by the receiver.

(2) The persons appointed to a committee of inspection shall be creditors who have proved their debts or persons holding general powers-of-attorney from such creditors.

(3) The committee of inspection shall have such powers of control over the proceedings of the receiver as may be prescribed.”

Amendment of
section 79, Act V
of 1920.

6. In sub-section (2) of section 79 of the said Act, the word “and” at the end of clause (c) shall be omitted, and after clause (d) the following clause shall be added, namely :—

“and

(e) for any matter which is to be or may be prescribed”.

Amendment of
section 80, Act V
of 1920.

7. In sub-section (1) of section 80 of the said Act, clauses (a), (c) and (d) shall be omitted.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, NOVEMBER 4, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT NO. XXXI OF 1926.

*An Act further to amend the Indian Evidence Act, 1872,
for a certain purpose*

Whereas it is expedient further to amend the Indian Evidence Act, 1872, for the purpose hereinafter appearing ;
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Evidence (Amendment) Act, 1926

Amendment of section 68, Act I of 1872

2. To section 68 of the Indian Evidence Act, 1872, I of 1872, the following proviso shall be added, namely :—

“ Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908, unless its execution by the person by whom it purports to have been executed is specifically denied.” XVI of 1908.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 9th September, 1926, and is hereby promulgated for general information :—

ACT No. XXXV OF 1926.

An Act further to amend the Cantonments Act, 1924, for certain purposes.

WHEREAS it is expedient further to amend the II of 1924. Cantonments Act, 1924, for the purposes hereinafter appearing; it is hereby enacted as follows :—

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1926.

Amendment of certain sections of Act II of 1924.

2. In clause (i) of section 2, the proviso to clause (e) of sub-section (1) of section 14, sub-section (4) of section 22, sub-section (3) of section 36, section 83, sub-section (1) of section 101, sub-section (2) of section 134, sub-section (1) of section 151 and the proviso thereto, sub-section (1) of section 192, clauses (b) and (c) of section 200 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), and in each entry, except the last, in Schedule V to the said Act, for the words "Officer Commanding the District," the words "Officer Commanding-in-Chief, the Command" shall be substituted. II of 1924.

Amendment of section 41, Act II of 1924.

3. In sub-section (2) of section 41 of the said Act, after the words "information to", the words "the Officer Commanding-in-Chief, the Command," shall be inserted.

Amendment of sections 47 and 48, Act II of 1924.

4. In sections 47 and 48 of the said Act, for the words "Officer Commanding the District" the words "Governor General in Council or the Officer Commanding-in-Chief, the Command" shall be substituted.

Amendment of section 49, Act II of 1924.

5. In section 49 of the said Act,—

(i) for the words "Officer Commanding the District" where they occur for the first time, the words "Governor General in Council or the Officer Commanding-in-Chief, the Command" shall be substituted;

(ii) for the words "with the concurrence of the Officer Commanding-in-Chief, the Command, and of", the words "after consultation with" shall be substituted; and

(iii) for the words "Officer Commanding the District," where they occur in the proviso, the words "Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be," shall be substituted.

Amendment of section 50, Act II of 1924.

6. In section 50 of the said Act, for the words "Officer Commanding the District", the words "Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be," shall be substituted.

Insertion of new section 99A in Act II of 1924.
General power of exemption.

7. After section 99 of the said Act the following section shall be inserted, namely :—

"99A. The Local Government may, by notification in the local official Gazette, exempt, either wholly or in part, from the payment of any tax imposed under this Act, any person or class of persons or any property or goods or class of property or goods belonging to the Secretary of State for India in Council.

Insertion of new section 117A in Act II of 1924.

Power of expenditure for educational purposes outside the cantonment.

8. After section 117 of the said Act, the following section shall be inserted, namely :—

“117A. A Cantonment Authority may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby.”

Amendment of section 277, Act II of 1924.

9. In section 277 of the said Act,—

(i) sub-section (1) shall be omitted and sub-sections (2) and (3) shall be re-numbered sub-sections (1) and (2):

(ii) in sub-section (2) as renumbered, for the words “Officer Commanding the District”, the words “Officer Commanding-in-Chief, the Command” shall be substituted.

Amendment of section 280, Act II of 1924.

10. In sub-section (2) of section 280 of the said Act, after clause (h) the following clause shall be inserted, namely :—

“(hh) the circumstances in which and the conditions subject to which remissions and refunds of taxes may be made in respect of buildings in hill cantonments”.

Amendment of section 287, Act II of 1924.

11. For sub-section (2) of section 287 of the said Act the following sub-section shall be substituted, namely :—

“(2) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Indian Registration Act, 1908, in which any cantonment is situated, shall, when any application for the registration of a document relating to immovable property within the cantonment is made, cause a copy thereof to be forwarded forthwith to the Cantonment Authority or such other authority as the Governor General in Council may prescribe in this behalf.”

XVI of 1908.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, NOVEMBER 25, 1926.

PART V.

Acts of the Indian Legislature assented to by the Governor-General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 24th February, 1926, and is hereby promulgated for general information :—

ACT No. V OF 1926.

An Act further to amend the Indian Lunacy Act, 1912.

WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912, for the purpose hereinafter appearing ; IV of 1912.
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1926.

Amendment of section 6, Act IV of 1912.

2. (1) For sub-section (1) of section 6 of the Indian Lunacy Act, 1912 (hereinafter referred to as the said Act), IV of 1912, the following sub-section shall be substituted, namely :—

(1) Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from India or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented."

(2) In sub-section (2) of the same section, for the words "If the petition is not so presented, it" the following shall be substituted, namely :—

"If the petition is not presented by the husband or wife, or where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition".

Insertion of new section after section 11, Act IV of 1912.

Power to appoint substitute for the person upon whose application a reception order has been made.

3. Section 11A of the said Act shall be renumbered as section 11B, and after section 11 of the said Act the following section shall be inserted, namely :—

“11A. (1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly :

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given ; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution :

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under this Act of such first-mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless, for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.”

Amendment of section 11B, Act IV of 1912.

4. In section 11B of the said Act as renumbered, in clause (e) of sub-section (2), after the figures “11” the figures and letter “11A” shall be inserted.

L. GRAHAM,

Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, SEPTEMBER 2, 1926.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 7th August, 1926.

No. F.-115-I-26-A.C.—Under Rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in the *Gazette of India* of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information :—

BILL NO. 35 OF 1926.

A Bill further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or gold exchange.

WHEREAS it is expedient further to amend the Indian Coinage Act, 1906, and the Indian Paper Currency Act, 1923, for certain purposes, and to lay upon the Governor General in Council certain obligations in regard to the purchase of gold and the sale of gold or gold exchange ;
It is hereby enacted as follows :—

Short
extent and
mencement.

title,
com-

1. (1) This Act may be called the Currency Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the 1st day of November, 1926.

Amendment of 2. In the Indian Coinage Act, 1906, section 11 and III of 1906.
Act III of 1906. the word "and" at the end of clause (d) of sub-section (2) of section 21, and clause (e) of that sub-section shall be omitted.

Amendment of 3. In the Indian Paper Currency Act, 1923— X of 1923.
Act X of 1923.

(a) to section 2, after the words "in this behalf" the following shall be added, namely:—

"and

"gold bullion" includes gold coin";

(b) in clause (a) of section 11 the words "or in gold coin which is legal tender under the Indian Coinage Act, 1906" shall be omitted;

(c) in section 13—

(i) the words "for gold coin which is not legal tender under the Indian Coinage Act, 1906, or" shall be omitted; and

(ii) for the figures "11·30016" the figures "8·47512" shall be substituted;

(d) in section 18—

(i) in sub-section (4) the words "sovereigns, half-sovereigns" and the words "coin and" shall be omitted; and

(ii) in clause (a) of sub-section (8) for the figures "11·30016" the figures "8·47512" shall be substituted;

(e) in section 19—

(i) in sub-section (3), the words "sovereigns, half-sovereigns" shall be omitted, and in the *Explanation*, after the word "sub-section" the following words and figures shall be inserted, namely:—

"gold bullion shall be reckoned at the rate of one rupee for 8·47512 grains troy of fine gold, and"; and

(ii) in sub-section (5), the words "coin or" and the word "coin", where it occurs for the second time, shall be omitted.

Obligation upon Government to purchase gold bullion tendered for sale.

4. Any person who offers for sale to the Governor General in Council at the office of the Master of the Mint, Calcutta, or the Master of the Mint, Bombay, or at any other place notified in this behalf by the Governor General in Council in the Gazette of India, gold in the form of bars containing approximately four hundred fine ounces, shall, subject to such conditions as the Governor General in Council may, by notification in the Gazette of India, prescribe, be entitled to receive payment for the same at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold.

Obligation upon Government to sell either gold or gold exchange on demand.

5. (1) Any person on demand at the office of the Controller of the Currency, Calcutta, or of the Deputy Controller of the Currency, Bombay, shall be entitled to purchase, at the option of the Controller or Deputy Controller, as the case may be, either gold for delivery at the Bombay Mint at the rate of twenty-one rupees, three annas and ten pies per tola of fine gold or gold exchange at an equivalent rate payable in any country outside India specified by such person which maintains a free gold market and which has been notified in this behalf by the Governor General in Council in the Gazette of India:

Provided that no person shall be entitled to demand gold of less value than four hundred fine ounces or gold exchange payable in any one country of less than that value.

(2) For the purpose of determining the equivalent rate applicable to the sale of gold exchange under this section, twenty-one rupees, three annas and ten pies shall be deemed to be equivalent to such sum in the currency of the country in which the exchange is payable as represents the standard price of one tula of fine gold in that country after deduction therefrom of an amount representing the normal cost per tola of transferring gold bullion in bulk from Bombay to that country including interest on its value during transit.

(3) The Governor General in Council shall from time to time determine in accordance with the provisions of sub-section (2), the equivalent rate in respect of each country notified under sub-section (1), and shall notify the rates so determined in the Gazette of India.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give effect to those recommendations of the Royal Commission on Indian Currency and Finance which relate to the immediate stabilisation of the Rupee in relation to gold and to the interim measures required during the transition period pending the bringing into operation of their proposals for the transfer to a Reserve Bank of India of the control of the Note issue and other functions at present performed by the Secretary of State and by the Government of India.

2. The Commission recommend in paragraph 175 of their Report that the Rupee should be stabilised in relation to gold at a rate corresponding to an exchange rate of 1s. 6d. gold for the rupee, that is, at the rate of one rupee for 8·47512 grains of gold. Clause 2 and all but the last portion of sub-clause (e) (i) of clause 3 are designed to give effect to this recommendation and at the same time to remove the legal tender quality of the sovereign and the half-sovereign, which are at present legal tender at the rate of 2s. for the rupee, in accordance with the Commission's recommendation in paragraph 66 of their Report that these gold coins must be demonetised in order to enable a real gold bullion standard to be established.

3. The Commission recommend in paragraph 166 of their Report that, until the Reserve Bank of India takes over the control of the Note issue, the Government of India must be under a statutory obligation to buy gold and to sell gold or gold exchange at its option at the gold points of the accepted gold parity of the rupee. Clauses 4 and 5 are designed to give effect to this recommendation and are based on the outline suggested in Schedule V to the Report.

4. Opportunity has been taken to amplify the *Explanation* to sub-section (3) of section 19 of the Indian Paper Currency Act, 1923, which contains the temporary provisions, so as to provide for the valuation of the gold bullion held in the Paper Currency Reserve on the lines of clause (a) of sub-section (8) of section 18 which refers to the permanent provisions which have not yet come into force.

5. It was announced in the press communiqué dated August the 4th, 1926, which accompanied the issue of the Commission's Report, that, pending legislation, the Government would take such steps as may be necessary to confine the movements of exchange within the approximate upper and lower gold points as calculated on the basis of a 1s. 6d. rupee, namely, 1s. 6½d. and 1s. 5½d., respectively, and the Government undertook in the same communiqué to lay proposals before the Legislature during the forthcoming Session in order to give the Legislature the earliest possible opportunity of considering the matter. This Bill is designed to give effect to that undertaking.

BASIL P. BLACKETT.

The 4th August, 1926.

L. GRAHAM,
Secretary to the Government of India.



The Calcutta Gazette

THURSDAY, SEPTEMBER 9, 1926.

PART VI.

**Bills introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly and Bills published under Rule 18 of the Indian
Legislative Rules.**

[As introduced in the Legislative Assembly.]

A

BILL

*further to amend the Code of Civil Procedure, 1908,
for a certain purpose.*

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

Amendment of
Order XLII in
the First
Schedule to
Act V of 1908.

1. This Act may be called the Code of Civil Procedure (Second Appeals) Act, 1926.

2. In Order XLII in the First Schedule to the Code of Civil Procedure, 1908,—

V of 1908.

(a) in rule 1, before the words "The rules" the words "Subject to the provisions of this Order" shall be inserted; and

(b) after rule 1, the following rule shall be added, namely:—

"2. Where the decree from which a second appeal is preferred affirms the decision of the Court by which the original decree was passed, the High Court shall, unless it dismisses the appeal under the procedure prescribed in rule 11 of Order XLI, require the appellant to deposit, in cash or Government securities, security to such amount as the Court thinks fit for the costs of the appeal and shall not call upon the respondent to appear and answer the appeal until such security has been furnished, and, if such security is not furnished within such time as the Court orders, the Court shall reject the appeal:

Provided that the High Court may dispense with such security in any case in which it is of opinion that the decision from which the appeal is preferred is on the face of it contrary to law or some usage having the force of law."

STATEMENT OF OBJECTS AND REASONS.

In order to protect the interests of a respondent in a second appeal in the matter of recouping his costs, the Civil Justice Committee recommended that in every second appeal to the High Court the appellant should deposit in Court by way of security for the respondent's costs, in cash or in Government promissory notes, a definite sum being the amount of any costs awarded against him in the lower Courts *plus* the amount at which the respondent, if successful, could tax his pleader's fee under the High Court rules. The opinions of Local Governments and High Courts and of the authorities consulted by them vary from complete acceptance of the Committee's recommendation to complete rejection, but a considerable body of opinion is in favour of restricting the proposal to second appeals from concurrent judgments only, subject to the following conditions:—

- (1) that the High Court should have power to dispense with security for costs when the judgment appealed from is on the face of it erroneous in law, or when a subsequent decision of the High Court or of the Privy Council has modified or altered the law;
- (2) that security should be required only on admission of the appeal under Order XLI of the Code of Civil Procedure;
- (3) that security should be limited to costs of the second appeal in the High Court; and
- (4) that security should be furnished only in cash or Government securities.

These restrictions appear to be desirable, and it is considered that the proposal in its restricted form will ensure sufficient protection to a respondent in a second appeal. The Bill gives effect to the proposal.

ALEXANDER MUDDIMAN.

4th August, 1926.



The Calcutta Gazette

THURSDAY, SEPTEMBER 23, 1926.

PART VI.

***Bills introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly and Bills published under Rule 18 of the Indian
Legislative Rules.***

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 19th August, 1926 :—

No. 5 OF 1926.

*A Bill further to amend the Indian Companies Act, 1913,
for a certain purpose.*

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purpose hereinafter appearing; it is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Companies (Amendment) Act, 1926.

Amendment of section 26, Act VII of 1913.

2. In sub-section (1) of section 26 of the Indian Companies Act, 1913, after the word "science" the word "religion" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to enable associations formed for religious purposes to be registered under section 26 of the Indian Companies Act, 1913. It is doubtful whether such associations are covered by the section as now worded, and it is therefore proposed to insert the word "religion" between the words "science" and "charity" in that section, as in the corresponding section 20 of the Companies (Consolidated) Act, 1908.

G. L. CORBETT.

The 26th July, 1926.

L. GRAHAM,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th August 1926 :—

No. 39 OF 1926.

A Bill further to amend the Indian Factories Act 1911, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, for the purpose hereinafter appearing; it is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Factories (Amendment) Act, 1926.

Amendment of section 9, Act XII of 1911.

2. To section 9 of the Indian Factories Act, 1911 XII of 1911. (hereinafter referred to as the said Act), after clause (d) the following clause shall be added, namely :—

“(e) the temperature in any part in which any manufacturing process is being carried on shall not be such as to be injurious to the health of the persons employed therein.”

Amendment of section 37, Act XII of 1911.

3. In sub-section (2) of section 37 of the said Act, in clause (g) for the words “and artificial humidification” the words “artificial humidification and temperature” shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Indian Factories Amendment Bill as introduced in the Legislative Assembly in September, 1925, contained a clause providing for the insertion in the Indian Factories Act, 1911, of the following section :—

“9A. (1) In every factory a reasonable temperature shall be maintained.

(2) In the case of any factory in which, in the opinion of the inspector, a reasonable temperature is not maintained, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary to maintain a reasonable temperature, and requiring him to carry them out before a specified date.”

The Select Committee appointed to consider the Bill decided by a majority to delete this clause on the ground that in present conditions it would impose a real burden on employers with only a problematical advantage to the operatives. When the Bill as amended by the Select Committee was being considered by the Legislative Assembly, Mr. Joshi moved an amendment for the re-insertion of the original clause, and although the amendment was defeated, it was clear from the discussion that a number of members considered that the Factories Act should contain some provision enabling control to be exercised over temperatures in factories. With this view, the Government of India, who recognised the force of the criticisms directed against the proposed section, are in accord and the present Bill represents another possible solution of the difficulty. Clause 2 provides that the temperature shall not be excessive in those parts of the factory where manufacturing processes are being carried on. In order to assist in the determination of what constitutes an excessive temperature, it is proposed in clause 3 that Local Governments should have the power to prescribe standards. This clause will also enable Local Governments to prescribe the methods to be adopted to secure observance of the standards fixed.

B. N. MITRA.

The 2nd August, 1926.

L. GRAHAM,

Secretary to the Government of India.

[As introduced in the Council of State.]

A Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments.

WHEREAS it is expedient to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Hindu Family Transactions Act, 192 .

(2) It extends to the whole of British India, except to those districts or tracts of country which are excluded from the operation of the Indian Registration Act, 1908. XVI of 1908.

(3) It shall come into force on the 1st day of January, 1929.

Certain transactions to be effected only by written instrument.

2. (1) After the commencement of this Act, no partition of the whole or any part of the immoveable property of any Hindu undivided family owning immoveable property which exceeds in value one thousand rupees, and no separation of interest by reason of which the members of any such family or any of them cease to be undivided, shall be effected otherwise than by a written and registered instrument.

(2) The following transactions among persons governed by the Hindu law, namely :—

- (a) a surrender by a widow or other person having a limited interest in property of such property in favour of a reversioner,
- (b) a release by a member of a Hindu undivided family of his undivided interest in the family property in favour of the other members,
- (c) a family arrangement among the members of a Hindu undivided family as to the mode of enjoyment of the family property, and
- (d) a grant of maintenance to any member of such family charged on any immoveable property,

shall not, where the property transferred or affected, as the case may be, by the surrender, release, arrangement or grant exceeds in value one hundred rupees, be effected otherwise than by a written and registered instrument.

(3) Nothing in this section shall apply to—

- (a) any decree or order of a Court, or
- (b) any award, or
- (c) any instrument made by a Revenue Officer purporting or operating to effect a partition of any property of, or a separation among any of the members of, a Hindu undivided family, or
- (d) any will.

Power to make rules for valuation of immoveable property.

3. The Local Government may, by notification in the local official Gazette, make rules to provide for the manner in which the value of immoveable property shall be determined for the purposes of section 2.

Amendment of
section 17, Act XVI
of 1908.

4. In section 17 of the Indian Registration Act, 1908 XVI of 1908. (hereinafter referred to as the said Act), for sub-section (3) the following sub-section shall be substituted, namely :—

“(3) The following documents shall also be registered, namely :—

(a) authorities to adopt a son executed after the 1st day of January, 1872, and not conferred by a will ;

(b) instruments which purport or operate to effect—

(i) any separation of interest by reason of which the members of a Hindu undivided family or any of them would cease to be undivided, or

(ii) a family arrangement among the members of any such family as to the mode of enjoyment of the family property,

and to which the Hindu Family Transactions Act, of 1921, applies ; and

(c) instruments which acknowledge the receipt or payment of any consideration on account of any separation or family arrangement described in clause (b) ;

Provided that nothing in this sub-section shall apply to any decree or order of a Court, or any award, or to any instrument of partition made by a Revenue Officer.”

Amendment of
section 28, Act XVI
of 1908.

5. In section 28 of the said Act, after the letters, word and brackets “(c) and (d)” the following shall be inserted, namely :—

“and sub-section (3), sub-clause (ii) of clause (b) and clause (c).”

Amendment of
section 50, Act XVI
of 1908.

6. In sub-section (1) of section 50 of the said Act, for the words and figures “of section 17, sub-section (1)” the following shall be substituted, namely :—

“of sub-section (1), and sub-clause (ii) of clause (b) and clause (c) of section (3) of section 17.”

STATEMENT OF OBJECTS AND REASONS.

The Bill gives effect to the following recommendations of the Civil Justice Committee :—

(1) that in the case of a joint Hindu family if the value of the immoveable property belonging to it exceeds Rs. 1,000—

(a) no separation of interest so as to make the members of the family or any of them cease to be undivided should be effected otherwise than by a registered instrument, whether any actual division of property be or be not made or agreed on in connection therewith ;

(b) no partition of the whole or any part of the immoveable property belonging to such family should be valid unless the same be made by registered instrument ;

Exception from these requirements should be permitted in the case of any decree or order of a Court, and any instruments of partition made by a Revenue Officer ;

(2) that Local Governments should be empowered to prescribe rules for valuation for this purpose ; and

(3) that in the case of persons governed by the Hindu Law—

- (i) surrenders by a widow,
- (ii) release by a coparcener,
- (iii) family settlements, and
- (iv) grants for maintenance,

should be effected only by a registered instrument, if immoveable property of the value of more than Rs. 100 is affected thereby.

When these transactions are not effected by registered instruments, they are dependent for proof on oral evidence which necessarily takes up considerable time of the Courts. The object of these recommendations is to place the transactions, as far as possible, beyond doubt, and thus to obviate delay in the disposal of suits by the Courts. The Local Governments and High Courts were consulted in the matter, and the Committee's proposals have met with considerable support.

S. R. DAS.

The 16th August 1926.



The Calcutta Gazette

THURSDAY, SEPTEMBER 30, 1926.

PART VI.

***Bills introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly and Bills published under Rule 18 of the Indian
Legislative Rules.***

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 19th August, 1926 :—

No. 8 OF 1926.

*A Bill further to amend the Indian Limitation Act,
1908, for certain purposes.*

WHEREAS it is expedient further to amend the Indian
IX of 1908. Limitation Act, 1908, for certain purposes hereinafter
appearing; It is hereby enacted as follows :—

1. This Act may be called the Indian Limitation Short title.
(Amendment) Act, 1926 .

2. In the proviso to sub-section (1) of section 20 of the Indian Limitation Act, 1908 (hereinafter referred to as
IX of 1908. the said Act), the words " in the case of part payment of
the principal of a debt " shall be omitted. Amendment of
section 20, Act IX
of 1908.

3. To section 21 of the said Act the following sub-
section shall be added, namely :— Amendment of
section 21, Act IX
of 1908.

"(3) For the purposes of the said sections—

(a) an acknowledgment signed, or a payment made,
in respect of any liability, by, or by the duly
authorised agent of, any widow or other
limited owner of property who is governed by
the Hindu law, shall be a valid acknowledg-
ment or payment, as the case may be, as against
a reversioner succeeding to such liability; and

(b) where a liability has been incurred by, or on
behalf of, a Hindu undivided family as such,
an acknowledgment or payment made by, or
by the duly authorised agent of, the manager
of the family for the time being shall be
deemed to have been made on behalf of the
whole family."

4. (1) In article No. 132 in the First Division of the First Schedule to the said Act, for the *Explanation* in the first column the following *Explanation* shall be substituted, namely :—

Amendment of
First Schedule to
Act IX of 1908.

“*Explanation*.—For the purposes of this article—

- (a) the allowance and fees respectively called *malikana* and *haggs*, and
- (b) the value of any agricultural or other produce the right to receive which is secured by a charge upon immoveable property,

shall be deemed to be money charged upon immoveable property”.

(2) In article No. 166, in the Third Division of the same schedule, to the entry in the first column the following shall be added, namely :—

“including any such application by a judgment debtor.”

STATEMENT OF OBJECTS AND REASONS.

In Chapter 41 of their Report the Civil Justice Committee made recommendations for a number of amendments in the Indian Limitation Act, 1908, and the Local Governments and High Courts were consulted in the matter. The consensus of opinion is in favour of the following recommendations :—

- (1) that the proviso to sub-section (1) of section 20 should be amended so as to make the payment of interest also subject to the condition that the fact of payment should appear in the hand-writing of the person making the same ;
- (2) that limited owners under the Hindu law, and the *Karta* or manager of a joint Hindu family should be enabled to make acknowledgments and payments under sections 19 and 20 ;
- (3) that article 132 should be amended so as to make it clear that a suit to recover the value of paddy and such like produce charged on immoveable property comes within this article ;
- (4) that article 166 should be amended so as to make it clear that it applies to a petition by a judgment debtor under section 47 of the Code of Civil Procedure, 1908.

The Bill gives effect to these proposals. The Committee's recommendation for the amendment of article 5 of the First Schedule to the Act was effected by Act XXX of 1925, and those for the amendment of articles 85, 133 and 134 are under separate consideration. The remaining recommendations, viz., those in paragraphs 3, 4, 8, 10, 11, 12 and 13 are not being pursued.

The 14th August, 1926.

S. R. DAS.

L. GRAHAM,

Secretary to the Government of India



The Calcutta Gazette

THURSDAY, OCTOBER 28, 1926.

PART VI.

***Bills Introduced in the Council of State and Legislative Assembly,
Reports of Select Committees presented to the Council and
Assembly and Bills published under Rule 18 of the Indian
Legislative Rules.***

THE INDIAN FOREST BILL, 1926.

[As introduced in the Council of State.]

A

BILL

*to consolidate the law relating to forests, the transit of
forest-produce and the duty leviable on timber and
other forest-produce.*

WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title and extent.

1. (1) This Act may be called the Indian Forest Act, 1926. Sec. 1, Act VII of 1926.

(2) It extends to Bombay, Bengal, Bihar and Orissa, the United Provinces, the Punjab (except the district of Hazara), and the Central Provinces.

(3) The Local Government of any other province may, by notification in the local official Gazette, extend this Act to the whole or any specified part of the province. Sec. 2, and Schedule I, Act XXXVIII of 1920.

*The Indian Forest Bill, 1926.**(Section 2.)*

Interpretation
clause.

2. In this Act, unless there is anything repugnant in the subject or context,— Sec. 2, Act VII of 1878.

(1) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;

(2) "Forest-officer" means any person whom the Governor General in Council or the Local Government, or any officer empowered by the Governor General in Council or the Local Government in this behalf, may appoint to carry out all or any of the purposes of this Act, or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

(3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(4) "forest-produce" includes—

Sec. 2 (3),
Act V of
1890.

(a) the following whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, cutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds and myrabolams, and

Sec. 2, Act
XV of 1911.

(b) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey, and wax, and all other parts or produce of animals, and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

(5) "river" includes any stream, canal, creek or other channel, natural or artificial;

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

Sec. 2(2), Act
V of 1890.

(7) "tree" includes palms, bamboos, stumps, brush-wood and canes.

Sec. 2(1), Act
V of 1890.

The Indian Forest Bill, 1926.

(Sections 3—6.)

CHAPTER II.

*Of Reserved Forests.*Power to
reserve forests.

3. The Local Government may constitute any forest-land or wasteland which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled a reserved forest in the manner hereinafter provided. Sec. 3, Act VII of 1878.

Notification
by Local
Government.

4. (1) Whenever it has been decided to constitute any land a reserved forest, the Local Government shall issue a notification in the local official Gazette— Sec. 4, Act VII of 1878.

- (a) declaring that it has been decided to constitute such land a reserved forest;
- (b) specifying, as nearly as possible the situation and limits of such land, and Sec. 3, Act V of 1890.
- (c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation.—For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of subsection (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.

(3) Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

Bar of accrual
of forest-
rights.

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the Local Government in this behalf. Sec. 5, Act VII of 1878.

Proclamation
by Forest
Settlement-
officer.

6. When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation— Sec. 6, Act VII of 1878.

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest; Sec. 5, Act V of 1890.
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

The Indian Forest Bill, 1926.

(Sections 7—10.)

- (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

Inquiry by
Forest Settlement-officer.

7. The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government, and the evidence of any persons likely to be acquainted with the same.

Sec. 7, Act
VII of 1878.

Powers of
Forest Settlement-officer.

8. For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:—

Sec. 8, Act
VII of 1878.

- (a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

Extinction of
rights.

9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

Sec. 9, Act
VII of 1878.

Treatment of
claims relating
to practice of
shifting cultivation.

10. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

Sec. 6, Act
V of 1890.

(2) On receipt of the statement and opinion, the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or
- (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Local Government.

*The Indian Forest Bill, 1926.**(Sections 11—15.)*

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.

Power to acquire land over which right is claimed.

11. (1) In the case of a claim to a right in or over any land, other than a right-of-way or right of pasture, or a right to forest-produce or a water-course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part. Sec. 10, Act VII of 1878.

(2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

- (i) exclude such land from the limits of the proposed forest; or
- (ii) come to an agreement with the owner thereof for the surrender of his rights; or
- (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894. I of 1894.

(3) For the purpose of so acquiring such land—

- (a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894; I of 1894.
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and
- (d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of pasture or to forest produce.

12. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part. Sec. 11, Act VII 1878.

Record to be made by Forest Settlement-officer.

13. The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,— Sec. 12, Act VII of 1878.

- (a) the name, father's name, caste, residence and occupation of the person claiming the right; and
- (b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

Record where he admits claim.

14. If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered. Sec. 13, Act VII of 1878.

Exercise of rights admitted.

15. (1) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved Sec. 14, Act VII of 1878.

The Indian Forest Bill, 1926.

(Sections 16—18.)

forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Forest Settlement-officer may—

- (a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce, as the case may be, to the extent so admitted; or
- (b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the Local Government.

Commutation
of rights.

16. In case the Forest Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the Local Government may make in this behalf, commute such rights by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Sec. 15, Act
VII of 1878.

Appeal from
order passed
under section
11, section
12, section
15 or section 16.

17. Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner, as the Local Government may, by notification in the local official Gazette, appoint to hear appeals from such orders:

Sec. 16, Act
VII of 1878.

Provided that the Local Government may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government, and, when the Forest Court has been so established, all such appeals shall be presented to it.

Sec. 17, Act
VII of 1878.

Appeal under
section 17.

18. (1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

(3) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(4) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the Local Government, be final.

The Indian Forest Bill, 1926.

(Sections 19—24.)

Pleadors.

19. The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Sec. 18, Act VII of 1878.

Notification declaring forest reserved.

20. (1) When the following events have occurred, namely:—

Sec. 19, Act VII of 1878.

- (a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer;
- (b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and
- (c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act,

I of 1894.

the Local Government shall publish a notification in the local official Gazette, specifying definitely, according to boundary marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

Publication of translation of such notification in neighbourhood of forest.

21. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the vernacular to be published in every town and village in the neighbourhood of the forest.

Sec. 20, Act VII of 1878.

Power to revise arrangement made under section 15 or section 18.

22. The Local Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

Sec. 21, Act VII of 1878.

No right acquired over reserved forest, except as here provided.

23. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued.

Sec. 22, Act VII of 1878.

Rights not to be alienated without sanction.

24. (1) Notwithstanding anything contained in section 23, no right continued under clause (c) of subsection (2) of section 15, shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government:

Sec. 23, Act VII of 1878.

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

The Indian Forest Bill, 1926.

(Sections 25-26.)

Power to stop
ways and
water-courses
in reserved
forests.

25. The Forest-officer may, with the previous sanction of the Local Government or of any officer duly authorised by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Sec. 24, Act
VII of 1878.

Acts prohibited
in such forests.

26. (1) Any person who—

Sec. 25, Act
VII of 1878.

(a) makes any fresh clearing prohibited by section 5, or

(b) sets fire to a reserved forest or, in contravention of any rules made by the Local Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;

Sec. 7, Act V
of 1890.

or who, in a reserved forest—

(c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;

(d) trespasses or pastures cattle, or permits cattle to trespass;

(e) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same;

(g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(h) clears or breaks up any land for cultivation or any other purpose;

(i) in contravention of any rules made in this behalf by the Local Government hunts, shoots, fishes, poisons water or sets traps or snares; or

(j) in any area in which the Elephants' Preservation Act, 1879, is not in force, kills or catches elephants in contravention of any rules so made;

VI of 1879.

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit—

(a) any act done by permission in writing of the Forest-officer, or under any rule made by the Local Government; or

(b) the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of Government under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

The Indian Forest Bill, 1926.

(Sections 27—30.)

Power to
declare forest
no longer
reserved.

27. (1) The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

Sec. 26, Act
VII of 1878.
Sec. 3, Act
XV of 1911.

(2) From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

*Of Village-forests.*Formation of
village-forests.

28. (1) The Local Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.

Sec. 27, Act
VII of 1878.

(2) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

CHAPTER IV.

*Of Protected Forests.*Protected
forests.

29. (1) The Local Government may, by notification in the local official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

Sec. 28, Act
VII of 1878.

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest."

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:

Provided that, if, in the case of any forest-land or waste-land, the Local Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the Local Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

Power to issue
notification
reserving trees,
etc.

30. The Local Government may, by notification in the local official Gazette,—

Sec. 29, Act
VII of 1878.

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;

The Indian Forest Bill, 1926.

(Sections 31-32.)

- (b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the Local Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; or

Sec. 2, Act I of 1918

- (c) prohibit, from a date fixed as aforesaid the quarrying of some, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

Publication of translation of such notification in neighbourhood.

31. The Collector of the district shall cause a translation into the vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Sec. 30, Act VII of 1878

Power to make rules for protected forests.

32. The Local Government may make rules to regulate the following matters, namely:—

Sec. 31, Act VII of 1878.

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce;
- (e) the other payment, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
- (f) the examination of forest-produce passing out of such forests;
- (h) the protection from fire of timber lying in such forests and of trees reserved under section 30;
- (i) the cutting of grass and pasturing of cattle in such forests;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879, is not in force;
- (k) the protection and management of any portion of a forest closed under section 30; and
- (l) the exercise of rights referred to in section 29.

VI of 1879.

The Indian Forest Bill, 1926.

(Sections 33—35.)

Penalties for acts in contravention of notification under section 30.

33. (1) Any person who commits any of the following offences, namely:—

Sec. 32, Act VII of 1878.

- (a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;
- (b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce;
- (c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;
- (d) sets fire to such forest, or kindles a fire without taking all reasonable precaution to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;
- (e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion;
- (f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;
- (g) permits cattle to damage any such tree;
- (h) infringes any rules made under section 32;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the Local Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Sec. 2, Act V of 1901.

Nothing in this Chapter to prohibit acts done in certain cases.

34. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32, or, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29.

Sec. 33, Act VII of 1878.

Sec. 3, Act V of 1901.

CHAPTER V.

Of the Control over Forests and Lands not being the Property of Government.

Protection of forests for special purposes

35. (1) The Local Government may, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land—

Sec. 35, Act VII of 1878.

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle; or
- (c) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

- (i) for protection against storms, winds, rolling stones, floods or avalanches;

The Indian Forest Bill, 1926.

(Sections 36—38.)

- (ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of land-slips or of the formation of ravines and torrents, or the protection land against erosion or the deposit thereon of sand, stones or gravel;
- (iii) for the maintenance of a water-supply in springs, rivers and tanks;
- (iv) for the protection of roads, bridges, railways and other lines or communication;
- (v) for the preservation of the public health.

(2) The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or water-land, such work as it thinks fit.

(3) No notification shall be made under subsection (1) nor shall any work be begun under subsection (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the Local Government.

Power to
assume manage-
ment of forests.

36. (1) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

Sec. 36, Act
VII of 1878.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

Expropriation
of forests
in certain
cases.

37. (1) In any case under this Chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

Sec. 37, Act
VII of 1878.

I of 1894.

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of
forests at
request of
owners.

38. (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

Sec. 38, Act
VII of 1878.

- (a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or
- (b) that all or any of the provisions of this Act be applied to such land.

(2) In either case; the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

The Indian Forest Bill, 1926.

(Sections 39—41.)

CHAPTER VI.

Of the duty on Timber and other Forest-produce.

Power to impose duty on timber and other forest-produce.

39. (1) The Local Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the local official Gazette on all timber or other forest-produce—

Sec. 39, Act VII of 1878.

Sec. 8 (2), Act V of 1890.

(a) which is produced in British India, and in respect of which the Government has any right;

(b) which is brought from any place outside British India:

Provided that a notification directing the levy of a duty, in the case of timber and other forest produce brought from any place outside British India which is not under the control of the Local Government, shall not be issued without the previous sanction of the Governor General in Council.

Sec. 5 (b), Act XV of 1911.

(2) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

Limit not to apply to purchase-money or royalty.

40. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Sec. 40, Act VII of 1878.

CHAPTER VII.

Of the Control of Timber and other Forest-produce in Transit.

Power to make rules to regulate transit of forest-produce.

41. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may make rules to regulate the transit of all timber and other forest-produce.

Sec. 41, Act VII of 1878.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within British India;

Sec. 8 (5), Act V of 1890.

(b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes and for the payment of fees therefor;

(d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee,

The Indian Forest Bill, 1926.(Sections 42—44.)^e

royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depôts;

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;

(i) regulate the use of property marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

(3) The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest produce or to any specified local area.

Penalty for breach of rules made under section 41.

42. (1) The Local Government may by such rules prescribed as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

Government and Forest-officers not liable for damage to forest-produce at depôt.

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

All persons bound to aid in case of accident at depôt.

44. In case of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger or securing such property from damage or loss.

Schedule,
Act XII of
1891.

Sec. 8 (4),
Act V of
1890.

Sec. 42, Act
VII of 1878.

Sec. 43, Act
VII of 1878.

Sec. 44, Act
VII of 1878.

The Indian Forest Bill, 1926.

(Sections 45—48.)

CHAPTER VIII.

Of the Collection of Drift and Stranded Timber.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

45. (1) All timber found adrift, beached, stranded or sunk; Sec. 45, Act VII of 1878.

all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and

in such areas as the Local Government directs, all unmarked wood and timber;

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depôt which the Forest-officer may notify as a depôt for the reception of drift timber.

(3) The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section.

Notice to claimants of drift-timber.

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim. Sec. 46, Act VII of 1878.

Procedure on claim preferred to such timber.

47. (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant. Sec. 47, Act VII of 1878.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the Government, or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section. Sec. 9, Act V of 1890.

(4) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

Disposal of unclaimed timber.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him. Sec. 48, Act VII of 1878.

Sec. 10, Act V of 1890.

The Indian Forest Bill, 1926.

(Sections 49—54.)

Government and its officers not liable for damage to such timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

Sec. 49, Act VII of 1878.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51.

Sec. 50, Act VII of 1878.

Power to make rules and prescribe penalties.

51. (1) The Local Government may make rules to regulate the following matters, namely:—

Sec. 51, Act VII of 1878.

- (a) the salving, collection and disposal of all timber mentioned in section 45;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

(2) The Local Government may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER IX.

Penalties and Procedure.

Seizure of property liable to confiscation.

52. (1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Sec. 52, Act VII of 1878.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Power to release property seized under section 52.

53. Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Sec. 53, Act I of 1918.

Procedure thereupon.

54. Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Sec. 53, Act VII of 1878.

The Indian Forest Bill, 1926.

(Sections 55—63.)

Forest-produce, tools, etc., when liable to confiscation.

55. (1) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation. Sec. 54, Act VII of 1878.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the trial of any forest-offence is concluded any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct. Sec. 55, Act VII of 1878.

Procedure when offender not known, or cannot be found.

57. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same: Sec. 56, Act VII of 1878.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 52.

58. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold. Sec. 57, Act VII of 1878.

Appeal from orders under section 55, section 56 or section 57.

59. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final. Sec. 58, Act VII of 1878.

Property when to vest in Government.

60. When an order for the confiscation of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances. Sec. 59, Act VII of 1878.

Saving of power to release property seized.

61. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 52. Sec. 60, Act VII of 1878.

Punishment for wrongful seizure.

62. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Sec. 61, Act VII of 1878.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

63. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code, Sec. 62, Act VII of 1878.

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person,

XLV of 1860.

The Indian Forest Bill, 1926.

(Sections 64—68.)

or that it may lawfully be cut or removed by some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to
arrest with-
out warrant.

64. (1) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

Sec. 63, Act
VII of 1878.

(2) Every officer making an arrest under this section shall, without unnecessary delay, and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

Sec. 4, Act I
of 1918.

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV, unless such act has been prohibited under clause (c) of section 30.

Sec. 12, Act
V of 1890.

Power to
release on
a bond a
person
arrested.

65. Any Forest-officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station.

Sec. 5, Act I
of 1918.

Power to
prevent com-
mission of
offence.

66. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Sec. 64, Act
VII of 1878.

Power to
try offences
summarily.

67. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the Local Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Sec. 65, Act
VII of 1878.

V of 1898.

Power to
compound
offences.

68. (1) The Local Government may, by notification in the local official Gazette empower a Forest-officer—

Sec. 13, Act
V of 1890.

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

*The Indian Forest Bill, 1926.**(Sections 69—72.)*

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

Presumption
that forest-
produce belongs
to Govern-
ment.

69. When in any proceedings taken under this Act or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved. Sec. 68, Act VII of 1878.

CHAPTER X.

Cattle-trespass.

Cattle-trespass
Act, 1871, to
apply.

70. Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer. Sec. 69, Act VII of 1878.

Power to
alter fines
fixed under
that Act.

71. The Local Government may, by notification in the local official Gazette, direct that, in lieu of the fines under section 12 of the Cattle-trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say:— Sec. 70, Act VII of 1878.

For each elephant ..	..	ten rupees.
For each buffalo or camel ..	..	two rupees.
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer ..	..	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ..	..	eight annas.

CHAPTER XI.

Of Forest-officers.

Local Govern-
ment may
invest Forest-
officers with
certain powers.

72. (1) The Local Government may invest any Forest-officer with all or any of the following powers, that is to say:— Sec. 71, Act VII of 1878.

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898; and v of 1898.
- (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

The Indian Forest Bill, 1926.

(Sections 73—79.)

Forest-officers
deemed public
servants.Indemnity for
acts done
in good
faith.Forest-officers
not to trade.

73. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. Sec. 72, Act VII of 1878. XLV of 1860.

74. No suit shall lie against any public servant for anything done by him in good faith under this Act. Sec. 73, Act VII of 1878.

75. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India. Sec. 74, Act VII of 1878.

CHAPTER XII.

*Subsidiary Rules.*Additional
powers to
make rules.

76. The Local Government may make rules— Sec. 75, Act VII of 1878.

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (d) generally, to carry out the provisions of this Act.

Penalties for
breach of
rules.

77. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both. Sec. 76, Act VII of 1878.

Rules when
to have force
of law.

78. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein. Sec. 77, Act VII of 1878.

CHAPTER XIII.

*Miscellaneous.*Persons bound
to assist
Forest-officers
and Police-
officers.

79. (1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community, Sec. 78, Act VII of 1878.

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps whether so required by any Forest-officer or Police officer or not,— Sec. 6 (1), Act I of 1918.

(a) to extinguish any forest fire in such forest of which he has knowledge or information;

The Indian Forest Bill, 1926.

(Sections 80-81.)

- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest-officer or Police-officer demanding his aid—

- (c) in preventing the commission in such forest of any forest-offence; and Sec. 4, Act V of 1901.
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails— Sec. 6 (2), Act I of 1918.

- (a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (1);
- (b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved or protected forest;
- (c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or
- (d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Management of forests the joint property of Government and other persons.

80. (1) If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may either— Sec. 79, Act VII of 1878.

- (a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or
- (b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the Local Government undertakes under clause (a) of sub-section (1) the management of any forest, waste-land or produce, it may, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

Failure to perform service for which a share in produce of Government forest is enjoyed.

81. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such Sec. 80, Act VII of 1878.

The Indian Forest Bill, 1926.

(Sections 82—86.)

share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed:

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

Recovery of money due to Government.

82. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Sec. 81, Act VII of 1878.

Lien on forest-produce for such money.

83. (1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

Sec. 82, Act VII of 1878.

(2) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to His Majesty.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

84. Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

Sec. 83, Act VII of 1878.

I of 1894.

Recovery of penalties due under bond.

85. When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue.

Sec. 14, Act V of 1890.

Sec. 7, Act I of 1918.

IX of 1872.

Repeals.

86. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 86.)

Enactments Repealed.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1878	VII	The Indian Forest Act, 1878.	So much as has not already been repealed.
1890	V	The Forest Act, 1890	Ditto.
1891	XII	The Amending Act, 1891.	So much of Part I of Schedule I as relates to the Indian Forest Act, 1878.
1901	V	The Indian Forest (Amendment) Act, 1901.	So much as has not already been repealed.
1911	XV	The Indian Forest (Amendment) Act, 1911.	Ditto.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Forest Act, 1878, the Forest Act, 1890, and the Indian Forest (Amendment) Act, 1901.
1918	I	The Indian Forest (Amendment) Act, 1918.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of Schedule I, Part I, as relates to the Indian Forest Act, 1878.

Table showing distribution in the Bill of Sections of Acts repealed
by the Bill.

ACT VII OF 1878.

Section of Act.	Clause of Bill.	Remarks.
1	1	
2	2	
3	3	
4	4	
5	5	
6	6	
7	7	
8	8	
9	9	
10	11	
11	12	
12	13	
13	14	
14	15	
15	16	
16	17	
17	18	
18	19	
19	20	
20	21	
21	22	
22	23	
23	24	
24	25	
25	26	
26	27	
27	28	
28	29	
29	30	
30	31	
31	32	
32	33	
33	34	
34	..	Omitted.
35	35	
36	36	
37	37	
38	38	
39	39	
40	40	
41	41	
42	42	
43	43	
44	44	
45	45	
46	46	
47	47	
48	48	
49	49	
50	50	
51	51	
52	52	
53	54	
54	55	
55	56	
56	57	
57	58	
58	59	
59	60	
60	61	
61	62	
62	63	
63	64	
64	66	
65	67	
66	..	Omitted.
67	..	Repealed by Act V of 1890.
68	69	
69	70	
70	71	
71	72	
72	73	
73	74	
74	75	
75	76	
76	77	
77	78	
78	79	
79	80	
80	81	
81	82	
82	83	
83	84	
84	..	

ACT V OF 1890.

Section of Act.	Clause of Bill.	Remarks.
1	Short title.	
2	2	
3	4	
4	5	
5	6(a)	
6	10	
7	26	
8(2)	39(1)	
8(3)	41(2) (a)	
8(4)	41(3)	
9	47(3)	
10	48	
11	57	
12	64(2)	
13	68	
14	85	

ACT V OF 1901.

1	Short title	
2	33(2)	
3	34	
4	79	

ACT XV OF 1911.

1	Short title.	
2	2(a)	
3	27	
4		
5	39(1) (Proviso).	

ACT I OF 1918.

1	Short title.	
2	30(b)	
3	53	
4	64(2)	
5	65	
6(1)	79(1)	
6(2)	79(2)	
7	85	

STATEMENT OF OBJECTS AND REASONS.

The general law relating to forests in British India is contained in the Indian Forest Act, 1878, and its amending Acts. The present Bill brings the law together within the scope of one enactment. The Bill is a straightforward consolidating Bill, but the original Act having been passed before the General Clauses Act of 1897 (X of 1897), it has been possible to shorten the language of the Bill by taking advantage of that Act. The ambiguous language of the second paragraph of section 42 of Act VII of 1878 has been altered in clause 43 (2) so as to bring it into conformity with what appears to have been the original intention of the law. The only other point which calls for further notice is the extent clause. The original Act extended to the Province of Assam, but by Regulation VII of 1891 the Indian Forest Act, 1878, was repealed as far as it relates to Assam. The Bill accordingly omits Assam from the extent clause.

RAZA ALI.

SIMLA:

The 28th August 1926.



The Calcutta Gazette

THURSDAY, DECEMBER 23, 1926.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Delhi, the 6th November, 1926.

No. F.-124—L-26—A. C.—Under Rule 18 of the Indian Legislative Rules the Governor General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly published for general information :—

BILL NO. 44 OF 1926.

A Bill further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1927.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

XXI
1923.

of

Insertion of new sections 209B and 209C in Act XXI of 1923.

Notice of sailing of pilgrim ship.

2. After section 209A of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act), the following sections shall be inserted, namely :—

XXI
1923. 'of

“209B. (1) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in British India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage and at each port or place in British India at which it is to touch for the purpose of embarking pilgrims, full particulars as to the class, tonnage and age of the ship, the maximum number of tickets of each class to be issued, the price of each class of ticket, the date on which the ship will sail from that port or place, the ports, if any, at which it will touch, the place of its destination, and the probable date of its arrival thereat.

(2) The master, owner or agent shall supply to the Pilgrim Officer, within three days from the date of demand, such further particulars in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) Within such time as may be prescribed before the date of the sailing of any such ship from any port or place in British India, the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

- (a) the place of destination of the ship,
- (b) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (1), and
- (c) the price of each class of tickets, which shall be the price communicated to the Pilgrim Officer under sub-section (1).

(4) Any master, owner or agent who—

- (a) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars which he is by or under this section required to supply or supplies false particulars, or
- (b) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied all particulars as required by or under this section and in accordance with the provisions thereof, or
- (c) advertises a date of sailing from any port or place or a price for tickets at that port or place other than the date or price, as the case may be, communicated to the Pilgrim Officer at that port or place under sub-section (1), or
- (d) offers to convey pilgrims by any ship from any port or place in British India or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub-section (3), of the matters specified in that sub-section, or
- (e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub-section (1),

shall be punishable with fine which may extend to two thousand rupees.

Compensation for
delay in sailing.

209C. (1) If the pilgrim ship fails to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date :

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of tickets of each class which have been issued for the voyage on or before the advertised date of sailing.

(3) Any sum payable as compensation under sub-section (1) shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention :

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided :

Provided, further, that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Local Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and deposit such sum as may be prescribed to cover the probable costs of a reference under this sub-section ; and the Pilgrim Officer shall, on receipt of the objection and deposit, either cancel or modify the aforesaid notice in accordance with the objection and refund the sums held in deposit under sub-section (3) and this sub-section, or refer the objection for decision to a Presidency Magistrate or a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed ; the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master, owner or agent any amount allowed to him by such decision, together with the sum deposited by him in respect of the costs of the reference or, if only a part of the amount in dispute is so allowed, the balance of the sum so deposited after deduction of an amount bearing the same proportion to the actual costs of the reference as the amount disallowed bears to the total amount in dispute.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant

port-clearance to ships thereat, and such officer shall refuse port-clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid."

Amendment of
section 213, Act
XXI of 1923.

3. In sub-section (1) of section 213 of the said Act, after clause (qq) the following clause shall be inserted, namely:—

"(qqq) the manner in which the proposed date of sailing shall be advertised under section 209B; the appointment of Pilgrim Officers for the purposes of that section and section 209C; the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer; the amount to be deposited to cover the probable costs of a reference under that section; and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section."

Repeals.

4. Sections 11, 12, 12A and 12B of the Protection of Pilgrims Act, 1887, and sections 11 and 12 of the Protection of Muhammadan Pilgrims Act, 1896, are hereby repealed.

Bom. Act II
of 1887.
Ben. Act I
of 1896.

STATEMENT OF OBJECTS AND REASONS.

It has been represented to Government that the existing arrangements in regard to the sailing of pilgrim ships from ports in British India are unsatisfactory in one respect. Pilgrims have sometimes to wait for comparatively long periods at ports of embarkation in India owing to postponement of the date of sailing. The present Bill seeks to remedy this defect by providing that the master, owner or agent of a pilgrim vessel shall give timely notice, in a manner to be prescribed, of the proposed date of sailing of a pilgrim ship and pay a penalty of one rupee per diem in respect of each pilgrim who, having paid for a ticket to travel by a particular ship, is detained after the notified date of sailing owing to the failure of the said ship to sail, unless such failure is due to any cause not arising from the act or default of the master, owner or agent.

J. W. BHOSE

SIMLA :

The 22nd October, 1926.

W. T. M. WRIGHT,

Joint Secretary to the Government of India.

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